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QUESTION OF THE COMORIAN ISLAND OF MAYOTTE

Report of the Secretary-General

I. INTRODUCTION

1. On 13 December 1993, the General Assembly adopted resolution 48/56 on the question of the Comorian island of Mayotte. In paragraphs 5 and 6 of the resolution, the Assembly requested the Secretary-General to maintain continuous contact with the Secretary-General of the Organization of African Unity (OAU) with regard to the problem, to make available his good offices in the search for a peaceful negotiated solution, and to report on the matter to the Assembly at its forty-ninth session.

2. On 24 May 1994, the Secretary-General addressed a note verbale to the Permanent Representatives of the Comoros and of France to the United Nations, drawing their attention to the contents of General Assembly resolution 48/56 and inviting them to provide him with any pertinent information for inclusion in his report to the Assembly.

3. Also on 24 May 1994, the Secretary-General addressed a letter to the Secretary-General of OAU, drawing his attention to paragraph 5 of General Assembly resolution 48/56, and requesting information on any action undertaken by OAU in the search for a peaceful negotiated solution to the problem.

4. In accordance with paragraph 6 of General Assembly resolution 48/56, the present report, based on the replies received from the Permanent Mission of France to the United Nations, the Permanent Mission of the Comoros to the United Nations and OAU, is submitted to the General Assembly.

II. INFORMATION RECEIVED FROM THE PERMANENT MISSION OF FRANCE TO THE UNITED NATIONS

5. On 29 June 1994, the Permanent Mission of France to the United Nations addressed a note verbale to the Secretary-General, the text of which reads as follows:

> "France remains willing to promote a just and lasting solution in conformity with its Constitution and on the basis of respect for the wishes of the peoples concerned. The Mahoran population voted freely and democratically in favour of maintaining the territory of Mayotte within the French Republic. A constructive dialogue is continually taking place at the highest level with the Islamic Federal Republic of the Comoros, as shown by President Djohar's regular visits to France. France is convinced that such consultation should be pursued in an unwavering spirit of accommodation, conciliation and openness."

III. INFORMATION RECEIVED FROM THE GOVERNMENT OF THE COMOROS

6. On 11 October 1994, the Director for Political Affairs of the Ministry of Foreign Affairs and Cooperation of the Comoros transmitted the following information to the Secretary-General of the United Nations:

> "The Islamic Federal Republic of the Comoros is an archipelago composed of the four islands of Grande-Comore, Anjouan, Mayotte and Mohéli.
>
> "A French colony for 130 years which has always preserved its national unity, it acceded unilaterally to independence on 6 July 1975.
>
> "We should recall that the unilateral declaration of independence followed a referendum on self-determination organized in the Comoros by France on 22 December 1974. In this consultation of the people, 95 per cent of Comorians voted in favour of independence. Agreements concluded by the Comoros and France in June 1973 provided for the organization of the referendum, the results of which were to be 'considered on a global basis and not island by island'. However, instead of honouring the commitments it had made on the eve of independence, France recognized the independence of three of the islands and, to the great surprise of the Comorian people, accorded a special status to Mayotte.
>
> "Instead of taking into account the results of the vote of 22 December 1974, France passed the act of 31 December 1975, which sought to dismember the Comoros, on the pretext that the majority of the population of Mayotte had voted against independence.
>
> "However - and this should be borne in mind - no earlier French regulations had ever challenged or questioned the unity of the archipelago, and French authorities had always reaffirmed this unity up to the eve of independence. For example, on 26 August 1974 the Secretary of State for Overseas Departments and Territories stated, with regard to the referendum,

that the French Government had opted for a global consultation for three reasons:

"First, on legal grounds, since under the rules of international law a Territory retains the borders it had as a colony.

"Secondly, it is inconceivable that the status of any island in the archipelago could be different from that of the others. Lastly, France has no intention of pitting the Comorians against one another."

Mr. Stirn went on to say:

"France refuses to divide the Comoros, which have the same population, the same Islamic religion and the same economic interests."

"By passing an act according a special status to the island of Mayotte, France thus failed to honour its own commitments. It also violated the sacrosanct principle of the inviolability of borders inherited from colonialism as well as the 'Charter on decolonization' (General Assembly resolution 1514 (XV)), paragraph 6 of which reads as follows:

"'Any attempt aimed at the partial or total disruption of the national unity and the territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations'.

"In reaction against this violation of international law and of the fundamental principles of the San Francisco Charter, on 12 November 1976, the new Federal Islamic Republic of the Comoros was admitted to membership in the United Nations by a resolution adopted unanimously by the General Assembly (resolution 3385 (XXX)); France did not participate in the vote. The United Nations and other organizations, including the Organization of African Unity (OAU), the Organization of the Islamic Conference (OIC) and the Movement of Non-Aligned Countries, recognized the independence of the Comoros on the basis of respect for its genuine borders, and continue to reaffirm the sovereignty of the Islamic Federal Republic of the Comoros over the island of Mayotte in resolutions adopted at every regular session.

"These resolutions have consistently called upon France to honour the commitments entered into prior to the referendum on self-determination concerning respect for the unity and territorial integrity of the Islamic Federal Republic of the Comoros and to enter into a frank and constructive dialogue with the Republic with a view to ensuring the return of Mayotte to the Comoros as a whole.

"The Islamic Federal Republic of the Comoros, for its part, has always stressed dialogue and negotiation in the effort to resolve the matter. Since 1975, successive Governments at Moroni have all adopted the same attitude.

"Similarly, the current Comorian Government, under the enlightened leadership of H.E. President Said Mohamed Djohar, has repeatedly reaffirmed its desire to meet France at the negotiating table in order to find, once and for all, a positive solution to this painful issue.

"Unfortunately, we are compelled to note that to date France continues illegally to occupy the Comorian island of Mayotte and has never demonstrated a positive attitude conducive to a frank and constructive dialogue concerning the return of Mayotte to the nation of which it forms a natural part.

"In the light of the foregoing, the Comorian Government once again calls upon the Secretary-General of the United Nations to make his good offices available and to urge the French party to agree to resolve this painful issue once and for all".

IV. INFORMATION PROVIDED BY THE ORGANIZATION OF AFRICAN UNITY

7. In a letter dated 19 October 1994 addressed to the Secretary-General of the United Nations, the Executive Secretary and Permanent Observer of OAU to the United Nations informed him that the Assembly of Heads of State and Government of OAU at its thirtieth ordinary session, held in Tunis from 13 to 15 June 1994, had adopted resolution AHG/Res.232(XXX) on the Comorian island of Mayotte. The Executive Secretary forwarded the text of that resolution, the operative paragraphs of which read in part as follows:

"...

"2. Reaffirms the sovereignty of the Islamic Federal Republic of the Comoros over the Comorian Island of Mayotte;

"3. Reaffirms its solidarity with the people of The Comoros in their determination to regain their political integrity, defend their sovereignty and territorial integrity;

"4. Appeals to the French Government to satisfy the legitimate claims of the Comorian Government in conformity with the relevant resolutions of the OAU, the UN, the Non-Aligned Movement, the Islamic Conference and the League of Arab States;

"5. Invites Member States of the OAU to take the necessary steps, individually and collectively, to inform and sensitize the French and the international public opinion on the question of the Comorian Island of Mayotte with a view to bringing the French Government to end its occupation of Mayotte;

"6. Reaffirms that the referendum on self-determination held on 22 December 1974 remains the only valid consultation applicable to the entire Archipelago;

"7. Appeals to all Member States of the OAU and the international community to condemn and reject any initiative which may be taken by France to make the Comorian Island of Mayotte participate in activities as a separate entity from the Islamic Federal Republic of the Comoros;

"8. Condemns the European Union's consideration of the Comorian Island of Mayotte as a French territory and the assistance it is in the process of giving the Island as an extension of the French Republic;

"9. Requests ACP countries particularly OAU Member States to oppose and condemn such initiatives which violate the territorial integrity of the Federal Islamic Republic of the Comoros;

"10. Directs the OAU Ad Hoc Committee of Seven on the Question of the Comorian Island of Mayotte as well as the OAU Secretary-General to reopen dialogue with the French Government, bearing in mind the declaration made in Moroni in June 1990, in a bid to rapidly resolve the Question of the Comorian Island of Mayotte;

"11. Urges the OAU Ad Hoc Committee of Seven on the Question of the Comorian Island of Mayotte and the General Secretariat to convene a meeting in Moroni before the 31st Assembly of Heads of State and Government, in order to explore ways and means of facilitating the holding of a tripartite conference;

"12. Requests that the Question of the Comorian Island of Mayotte remain on the Agenda of all meetings of the OAU, the UN, the Non-Aligned Movement, the Islamic Conference and the League of Arab States, until the restitution of the Comorian Island of Mayotte to the Federal Islamic Republic of the Comoros;

"13. Further requests the OAU Secretary-General to monitor the developments on the Question and present a report thereon to the next Session of the Council of Ministers."

V. REMARKS

8. The Secretary-General has maintained close contact with all parties and has informed them of his readiness to make available his good offices in the search for a peaceful solution to the problem.

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SECURITY COUNCIL
Forty-ninth year

Note by the Secretary-General

The attached document contains the twelfth report of the Director of the Human Rights Division of the United Nations Observer Mission in El Salvador (ONUSAL) covering the period from 1 July to 30 September 1994. As will be recalled (see S/23999, para. 3), it was decided that the work of ONUSAL in relation to the San José Agreement on Human Rights (A/44/971-S/21541, annex) would continue to be the subject of a separate series of reports.

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Annex

Twelfth report of the Director of the Human Rights Division of the United Nations Observer Mission in El Salvador (ONUSAL)

(1 July-30 September 1994)

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I. INTRODUCTION

1. The Human Rights Division has been reporting regularly to the Secretary-General on the human rights situation in El Salvador, largely on the basis of active verification of cases or situations that constitute or are likely to constitute human rights violations. On the basis of complaints received by ONUSAL statistics have been compiled which have helped to identify trends in human rights situation during specific periods and to keep track of broader trends as well.

2. However, it should be pointed out that progress or the lack thereof in consolidating the system for the protection of human rights in El Salvador cannot be measured solely on the basis of case statistics. Numerical discrepancies can be attributed to many different factors and occur repeatedly. Such an evaluation, then, must deal essentially with the state of the legal and political institutions for the protection of human rights in El Salvador which, at this stage in the peace process, are capable of consolidating the progress made.

3. While ONUSAL has not neglected verification of complaints of human rights violations, it has, in preparation for its withdrawal from El Salvador, gradually been shifting the focus of its active verification to institutional support, which offers an opportunity for making an overall assessment of the situation and determining whether a degree of "sustainable development" in human rights protection has been achieved by the anticipated date of completion of the Mission. The justification for this emphasis lies in the fact that permanent national institutions must fully assume prime responsibility for defending and protecting human rights in El Salvador as ONUSAL, which is an ad hoc and temporary mechanism, gradually withdraws from national life.

4. With this prospect in mind, the Human Rights Division has since July been working even more closely with the Office of the National Counsel for the Defence of Human Rights in the receiving and investigation of complaints. At the same time, the Division has been expanding its cooperation programmes with institutions responsible for the protection of human rights and the administration of justice in El Salvador, in order to help reform and strengthen them, pursuant to the guidelines set out by the parties in the peace agreements.

5. With these considerations in mind, this report has been prepared to inform the Secretary-General, and through him the Security Council, of the human rights situation in El Salvador, specifically in terms of the level of development and maturity of institutions responsible for defending, protecting and promoting human rights. For this reason, it differs in structure from previous reports. It contains a second chapter on institution-building and a third chapter that reviews the active verification of human rights on the basis of the complaints handled by ONUSAL.

II. INSTITUTION-BUILDING: A STEP IN THE RIGHT DIRECTION

6. The effective protection and enjoyment of human rights in El Salvador depends on the consolidation of a State in which the rule of law prevails and of democracy. In concrete terms this should be reflected in the establishment and proper functioning of the institutions and systems for the protection of human rights provided for in the peace agreements. Although this process is incomplete, it is advancing in the right direction.

7. The election of the new Supreme Court of Justice, which opens up new vistas for restructuring and purifying the judicial system, the gradual deployment of the Office of the National Counsel for the Defence of Human Rights throughout the country, measures to strengthen the Office's system of protection, together with the ongoing deployment of the National Civil Police, the appointment during the reporting period of its Inspector-General and the adoption of measures to correct its deficiencies are steps that indicate conclusively that institution-building has progressed and is more conducive to the further implementation of recommendations pertaining to the administration of justice and human rights. However, serious and disturbing delays persist in such areas as the accession to certain international instruments and the legal reform process.

A. The administration of justice

8. During the period under review the Legislative Assembly, in a step unprecedented in El Salvador, elected by consensus a new Supreme Court of Justice made up of distinguished and representative jurists. This was undoubtedly one of the most welcome signs of the pluralism and democratization which are beginning to take hold in El Salvador. It also confirms that the Court is in a position to achieve the independence and autonomy which are essential to it as the chief body of the judiciary.

9. Immediately after taking office, the judges of the Supreme Court of Justice stated their intention to review and reorganize the administrative apparatus and to purify the judiciary, as preliminary steps to further judicial reform which, as the judges themselves have noted, requires action in many different areas.

10. The determination of the Court's judges has already found expression in a number of measures to reorganize the judicial system. In my eleventh report I reiterated my concern about the way in which the Institute of Forensic Medicine was run by its previous director. The new Supreme Court of Justice has taken effective steps to ensure that the Institute is operated in accordance with the law and has also appointed a distinguished and respected specialist to head it. The Court has also taken note with interest of the information received from ONUSAL regarding members of the judiciary who, according to verified complaints, have been guilty of professional misconduct; this information supplements the evaluation conducted by the National Council of the Judiciary.

11. In August and September, the Human Rights Division held, in close coordination with the National Council of the Judiciary and the Council's Judicial Training School and with the support of the European Union, a series of nationwide training courses for judges, judges of courts of first instance and

justices of the peace in the application of the international human rights norms that have been incorporated into Salvadorian legislation. The purpose of the courses was to ensure that participants applied those norms in their arguments and decisions, harmonizing them with and according them priority over national legislation in view of their precedence. The courses were also attended by government procurators chosen by the Office of the Attorney-General of the Republic.

12. As part of this cooperation, an anonymous opinion poll was conducted among justices of the peace, judges of courts of first instance and government procurators. The survey yielded valuable information regarding the judges' perception of the way the judicial system operates, which in general matched the perception of government procurators.

13. A number of replies are revealing. Asked about the effective enjoyment of human rights, 71 per cent of the lower court judges considered it "insufficient", a perception shared by as many as 91.3 per cent of the justices of the peace. In response to a question on problems affecting the independence of judges, as many as 29.6 per cent of the justices of the peace thought that the main problem was pressure from their superiors (a view shared by 34 per cent of the lower court judges). The results once again illustrate the need to carry out reforms to guarantee judges the autonomy and independence from their superiors they require in the exercise of their judicial functions. They also reveal a critical attitude towards the human rights situation which would in principle seem to indicate a strong commitment to providing an appropriate response.

14. The fact that the judges (30.7 per cent of the justices of the peace and 27.7 per cent of the judges of courts of first instance) find their biggest problem to be their working relationship with the Office of the Chief State Counsel is a further indication of the need to increase the number of public defence attorneys and to broaden their training and expertise through courses and publications; this task could be accomplished through the Judicial Training School with support from the international community.

15. Asked which legal reforms they considered most urgent, the judges pointed first to the need to adopt, on second reading, the current constitutional reforms; secondly, to the need to adopt the new criminal code, code of criminal procedure and prison act; thirdly, to the need to abolish extrajudicial confession; fourthly, to prepare and adopt a bill on habeas corpus; and lastly, to regulate by law the procedures for arrest and to shorten the periods of administrative detention. As may be seen, these views are consistent with the recommendations made by the Commission on the Truth and the Human Rights Division.

16. As to the main shortcomings in the administration of justice that were likely to constitute violations of due legal process, both the justices of the peace and the lower court judges agreed that the most serious problem was the large number of sentenced prisoners. For the justices of the peace, this shortcoming was followed by failure to nullify statements obtained by coercion, oversights by the courts in cases involving arbitrary detention, the absence of a judge in certain important proceedings and, lastly, oversights by the courts

in cases involving deaths. For their part, the judges of courts of first instance ranked the absence of judges in certain important proceedings second, followed by failure to nullify statements obtained by coercion, oversights by the courts in cases involving arbitrary detentions and, lastly, oversights by the courts in cases involving deaths.

17. In the light of these findings, it is imperative that the new Supreme Court of Justice take urgent steps to deal with these matters, through hearings and other measures aimed at solving current problems. Here it is essential to involve the National Council of the Judiciary, through its Judicial Training School, and the Ministry of Justice in the search for and implementation of short-term solutions.

18. The appointment of the new Supreme Court of Justice has opened up new and improved opportunities for strengthening the Salvadorian judicial system. While problems in the administration of justice require a sustained long-term effort on account of their depth and complexity, it is equally true that there are a number of recommendations which can be contemplated in the short term whose implementation is essential in laying down the foundations of judicial reform. Two examples are the administrative reorganization and the purification of the judiciary, which are moving forward as a result of the determination of the new Supreme Court of Justice. It is regrettable, however, that other tasks which Salvadorian judges and prosecutors themselves identified in the survey and which are consistent with the recommendations made repeatedly by the Human Rights Division and the Commission on the Truth have not received the impetus they can and should be given. This is the case with the approval of legislative reforms, whose unaccountable delay is currently one of the main hurdles to improving the administration of justice and machinery for protecting human rights in El Salvador.

B. Legislative reform

19. I must express my concern over the serious delays occurring in the area of legislative reform. During the period covered by this report, progress in this area has been minimal. The constitutional reforms adopted in the first round of voting by the previous Legislative Assembly, which incorporate some of the recommendations made by the Human Rights Division and the Commission on the Truth, are still awaiting ratification. Also pending are the proposed new criminal code, code of criminal procedure and prison act, despite the fact that the draft codes were submitted to the Legislative Assembly in May 1994 and the prison bill in June.

20. The delay in the adoption of the criminal code and code of criminal procedure also delays the adoption of a number of partial reforms that have been recommended and incorporated into the draft codes; these include shortening the period of administrative detention, regulating the conduct of law enforcement officials in terms of ensuring respect for human rights, abolishing extrajudicial confession and establishing basic principles regarding arrest. Adoption of these legal reforms does, of course, involve complex issues that require conscientious and detailed analysis by legislative committees, but this

should not prevent the legislature from moving ahead with them as rapidly as possible.

21. Similarly, there has been no progress on the recommendations regarding habeas corpus legislation, the composition and powers of the National Council of the Judiciary or a new career judicial service act: no proposals have been submitted to the Legislative Assembly on these subjects. Nor has any action been taken on the recommendation to repeal the 1886 Police Act.

22. It is also disturbing that there has been no move to ratify or accede to a number of international instruments, the most important being the Optional Protocol to the International Covenant on Civil and Political Rights, a/ the Inter-American Convention to Prevent and Punish Torture b/ and the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights, c/ or to recognize the jurisdiction of the Inter-American Court of Human Rights. Accession to these instruments would constitute an important step in consolidating the system of human rights protection in El Salvador.

C. The Office of the National Counsel for the Defence of Human Rights

23. The Office of the National Counsel for the Defence of Human Rights, a product of the peace agreements, is a national institution with broad powers, and hence broad responsibilities, for the protection and promotion of human rights. As the time of ONUSAL's withdrawal from El Salvador approaches, it becomes increasingly urgent and essential that the Office exercise its powers effectively. This is why I told the Secretary-General in my previous report that I would keep him informed on progress in this area.

24. Bearing the departure of ONUSAL in mind, the Human Rights Division has persistently advised the Office to pursue its institutional strengthening more vigorously and has steadily urged the Government and the international donor community to cooperate with the Office in this process. With a view to making the Office fully operational, I have devoted a substantial portion of the Human Rights Division's resources to technical cooperation with that body.

25. I must express my satisfaction with the progress achieved within this framework of cooperation during the period covered by this report. Cooperation between ONUSAL and the Office of the National Counsel for the Defence of Human Rights has taken the form of a technical assistance programme in the registration and legal characterization of complaints and the investigation of facts or situations likely to constitute human rights violations. The programme now operates in all branches of the Office throughout the country by means of a mechanism whereby complaints submitted to ONUSAL are received also by the Office, unless the complainants have stipulated that they should be kept confidential, in which case they are investigated jointly.

26. The adoption of this joint verification mechanism, which began to function in July, has meant the permanent assignment by the Human Rights Division of legal and police officials to advise the various branches of the Office of the

National Counsel in the acceptance, registration, legal characterization and investigation of complaints. Thus, ONUSAL, while continuing to exercise its verification mandate, is gradually transferring its case-load to the national agency while providing ongoing technical assistance in the field.

27. This mechanism has yielded positive results on a number of levels: ONUSAL is sharing its experience in verification, both in legal matters and in police investigation methods, with the staff of the Office of the National Counsel, and it is helping to enhance the professionalism of the Office's staff in terms of their grasp of the norms of international human rights law and the application of those norms in their daily work and in terms of the adoption and, where appropriate, adaptation of categories of analysis and working definitions and criteria commonly accepted in the human rights field.

28. Joint verification has been crucial in enabling the Office of the National Counsel for the Defence of Human Rights to expand its coverage since July. The Office now handles a larger case-load, in part because ONUSAL now forwards the complaints it receives. The Office also has greater investigational capacity, since Mission staff are working with it on a constant basis. These activities, coinciding with the commencement of an internal reform of the Office's protection mechanism, undertaken with support from the United Nations Development Programme (UNDP), have contributed to a significant increase in the number of rulings. During the months of August and September alone, the Office issued 47 rulings, compared with 27 rulings from January to July 1994. This progress, while considerable, needs to be supplemented by an effective follow-up mechanism to ensure that rulings are implemented. Cooperation has also enhanced the Office's capacity to organize, analyse and report information on the country's human rights situation.

29. In more general terms, cooperation has helped considerably in creating a transition mechanism that will ensure that ONUSAL coverage and verification activities in El Salvador will be taken over fully by the Office, thereby allaying any concern people might have at the time of the Mission's final departure. In this regard, we are pleased to note that people are increasingly taking their human rights complaints to the Office, something ONUSAL observers are always encouraging.

30. These steps have been supplemented by training courses on a variety of human rights topics. During the reporting period, workshops were held on methods of legal characterization and classification commonly used in the field of human rights law; they have done much to improve the work of verification. The workshops also dealt with methods used in police and judicial investigations of alleged human rights violations, focusing on the investigation process and the specifics of the administration of justice and forensics. The workshops have improved the Office's capacity to monitor the legality of such investigations. ONUSAL will continue to support such courses, more of which are scheduled.

31. As of this writing, the Office of the National Counsel for the Defence of Human Rights has begun to operate in other parts of the country; it now has eight branches in the departments and is getting ready to open two more. It must be said, however, that many of them are working under difficult conditions.

Shortages of qualified personnel, vehicles and technical and logistical resources are some of the major obstacles preventing the Office from operating effectively within the interior of the country. One of the reasons for this situation is, of course, budgetary restrictions. The Government's political will to strengthen the Office of the National Counsel for the Defence of Human Rights, reflected in the address by the President of El Salvador to the General Assembly in plenary meeting at its forty-ninth session, must take the concrete form of a significant increase in the budget appropriation for the Office, a matter also for the Legislative Assembly.

D. The National Civil Police

32. The deployment of the National Civil Police is moving along more rapidly against a background of insecurity among the citizens. At present, deployment of the police throughout the country needs to be accompanied by a vigorous effort to improve the way the police work. ONUSAL has been working extensively with the National Civil Police in this regard. A verification programme was successfully carried out at all posts, substations and stations of the National Civil Police in September with the full cooperation of the police leadership. Mention should also be made of a series of workshops that were held for command personnel of the new police force, the preparation and publication of the Guide to Rules and Procedures of the National Civil Police and, more recently, refresher courses for command personnel aimed at promoting and encouraging the consolidation of the law enforcement system within the framework of the peace agreements. Nevertheless, these initiatives require a sustained effort and call for greater versatility on the part of the National Civil Police in adopting corrective measures.

33. El Salvador now has a new law enforcement agency based on a new philosophy. This enormous challenge entails instilling in the country the very concept of a police force, free from militaristic and repressive connotations. The weaknesses of certain institutions, such as the judiciary, for example, together with the resistance of minority elements have compounded problems facing the National Civil Police. I must also express my concern in this regard at three events that occurred during the reporting period that threatened the life of the Director of the National Civil Police; the circumstances are still unclear and would appear to suggest ordinary criminal motives, but they are seen by some as threats against the police as an institution. It is against this difficult and complicated background that complaints of human rights violations by the National Civil Police have been made, which I shall now discuss.

34. The Human Rights Division received 87 admissible complaints against the National Civil Police during the reporting period. Of these, the alleged violation was confirmed after verification in 26 cases. In 21 cases, the police action was found not to have violated human rights; 7 cases could not be verified for want of objective evidence; and 33 cases are pending while the investigations continue.

35. There were nine complaints (10.3 per cent of all complaints) of violations of the right to life, of which eight related to arbitrary executions (three confirmed and five pending), and one to death threats, the latter confirmed.

The confirmed cases of arbitrary execution involved the death of Rodolfo Iraheta Contreras, 68 years of age, who was shot on 16 September 1994 by a National Civil Police officer during the latter's intervention in an incident of domestic violence at the victim's home in Comunidad Iberia, San Salvador; the death of Pedro Osmín Iraheta, killed by gunshots fired by a National Civil Police patrol on 7 August 1994 on a local road in San Felipe canton, Department of San Vicente, when Osmín, who was intoxicated, ignored an order to stop; and the case of Orlando Saravia Rodríguez, who died on 18 September 1994 in El Tránsito, San Miguel, during an operation carried out by officers out of uniform.

36. It should be emphasized that the arbitrary executions mentioned here do not reflect a deliberate response on the part of the officers involved and still less a systematic policy of police activity. It has been found that such cases entail a disproportionate use of firearms on the part of police officers and a tendency to obstruct subsequent investigations, even to the point of falsifying evidence and tampering with the scene of the crime. In the death of Iraheta Contreras, witnesses reported that the victim was left wounded for a long period of time while the officers involved hunted for someone who would support their version of the incident. Irregularities were also found in the case of Osmín Iraheta in San Vicente, in which the scene of crime was tampered with and contradictions later became apparent between the versions of witnesses and those of the police officers involved in the incident. Similarly, misconduct was found in the case of the death of Saravia in San Miguel, in which the National Civil Police officers waited for four hours before delivering the body to the Institute of Forensic Medicine; an incident took place involving Institute physicians and the judge in charge of the case, and versions of the facts were provided that were at odds with eyewitness accounts.

37. Some 28 complaints (32.2 per cent of all complaints) were filed concerning the right to integrity of person. They involved 2 cases of torture (1 confirmed, the other under investigation); 13 cases of ill-treatment (3 confirmed, 4 in which no violation was found and 6 under investigation); and 13 cases of excessive use of force (2 confirmed, 5 in which no violation was found and 7 pending). The confirmed case of torture is discussed in the corresponding section of this report.

38. ONUSAL received 37 complaints concerning the right to personal freedom. Of these, 29 cases involved arbitrary detentions (9 confirmed, 13 in which no violation was found and 7 pending); 2 cases involved arbitrary detention for petty misdemeanours (still pending); and 6 cases involved violation of procedural guarantees (4 confirmed and 2 in which no violation was found). The remainder of the complaints involved violations of the right to security of person (5.7 per cent) and to due process of law (9.2 per cent).

39. An overall look at the available data shows that most complaints fall under two major categories of violations. In the first group are violations resulting from ignorance or misinterpretation of regulations by the police, as in the case of arbitrary detentions. Contributing factors are the lack of a uniform, clear and specific legal framework to impose precise limits on police actions and the inadequate basic legal training received by National Civil Police officers at the National Public Security Academy. Investigation has also shown that in some

cases poor legal advice given to the National Civil Police, some of it contrary to the philosophy of the new police force, has led police officers to follow irregular procedures. Mention should also be made of shortcomings in the judiciary and the system of public defence attorneys, which in many cases are the cause of arbitrary detentions.

40. It has also been found that on some occasions police misconduct results from poor supervision within the National Civil Police. Both the upper echelons and the rank and file lack clear, defined, uniform guidelines, so that officers frequently have to use their own judgement to fill in the gaps left by the absence of specific instructions.

41. The second group of violations consists of those which are associated with more complex and profound problems and go beyond simple negligence or the ignorance of procedures. This second category generally covers claims of arbitrary execution, ill-treatment and excessive use of force. The arbitrary executions that have been reported are all the direct result of the excessive use of force by police officers in the course of duty. Resorting to the use of firearms regardless of the circumstances remains a constant. This is a recurrent theme which has been part of all the training and technical cooperation activities undertaken by the United Nations Observer Mission in El Salvador (ONUSAL) for the National Civil Police.

42. The alleged violations of the right to integrity of person would appear to reflect troubling attitudes within the new police force which must be eliminated as rapidly as possible. It seems strange that senior officers of the National Civil Police should in some cases claim to be "unaware" of events that might constitute violations of human rights or that, even by commission or omission, their conduct might lead to delays in both internal and external investigations.

43. The cases reported reveal a lack of uniformity in the attitudes of senior personnel in the police stations, substations or posts which are responsible for the acts that are later denounced, and even within the Disciplinary Investigation and Control Units. At times the institutional response has been lacking in clarity and force; at other times there have been encouraging signs of willingness to carry out thorough investigations. Nevertheless, there has been a failure to observe the requisite rigour which ought to accompany internal disciplinary procedures at this point in the police's early stages of existence.

44. The peace agreements provided El Salvador with a new doctrine of security, based on international norms and principles. The establishment of the new National Civil Police was envisaged in that context. The new police force, governed by a new philosophy, must nevertheless be able to operate effectively within the context of the relationship between the State and society which, as in any transitional situation, is changing slowly and somewhat reluctantly. There are signs that the population's attitude towards the police is changing: citizens want the police to be more effective in prosecuting crime and ensuring public safety and, at the same time, are demanding from them better treatment which reflects greater respect for human rights. In the light of this popular attitude, the National Civil Police occasionally finds itself facing a degree of uncertainty that is expressed in arbitrary responses, such as the excessive use

of force, ill-treatment, or constantly citing "disrespect for authority" as a justification for making arrests.

45. These problems are exacerbated by deficiencies in the training of police officers and senior personnel, as illustrated by the test results of National Civil Police senior and mid-level officers who participated in the ONUSAL workshop courses on police procedure and human rights in June and July 1994. Senior officers gave the highest percentage of incorrect responses on the following subjects: invalidity of proceedings (51.3 per cent); determination of the competent court (41 per cent); procedures for dealing with petty misdemeanours (23.1 per cent); and arrest procedures (20.5 per cent). Corporals and sergeants had the highest error rates on determination of the competent court (51.6 per cent); invalidity of proceedings (41.2 per cent); arrest procedures (36.8 per cent) and procedures for dealing with petty misdemeanours (25.8 per cent).

46. Refresher courses for senior National Civil Police officers were offered in September and October 1994 and included the subjects mentioned above. Although the participants' examinations have not yet been completely analysed, it is disturbing to note that senior police personnel and legal advisers from the eastern and western regions of the country did not sit for the test.

47. In view of these shortcomings in police conduct, the National Civil Police needs to strengthen its staff training programme significantly, particularly in the area of police intervention techniques and procedures. In this connection, it is imperative that the National Public Security Academy make the necessary arrangements for training new officers. It is likewise imperative that the supervisory mechanisms of the National Civil Police be strengthened, with particular emphasis on promoting the work of the Disciplinary Investigation Unit, so that any instances of police misconduct are promptly corrected and punished. The hierarchy of the National Civil Police should also be better defined so that the chain of command is clearly delineated.

48. The recent appointment of the Inspector-General of the National Civil Police is an important step towards strengthening the force. Without denying his need to have access to the entire police institutional structure, the Inspector-General could make optimum use of his vital supervisory functions in the National Civil Police if he exercised them through the Disciplinary Investigation and Control Units, which would also help to strengthen the Units and make them more operational. Similarly, monitoring by the Vice-Ministry of Public Safety is crucial to rectifying the reported inadequacies and achieving better coordination between the National Public Security Academy and the National Civil Police.

E. The emergency in the penitentiary system

49. The Human Rights Division has given particular attention to the situation in the country's penitentiary system, which represents one of the main structural causes of violence in El Salvador, as demonstrated by the series of riots that occurred in prisons over the course of the year. During the period covered by this report, several violent incidents occurred in detention centres

in the country resulting in the death of a number of inmates. In previous reports, I have pointed out to the Secretary-General some of the causes underlying these incidents, such as the serious situation in detention centres with regard to overcrowding, health, security, food, the disciplinary and administrative system and so forth.

50. In August, the Human Rights Division submitted to the Government, the Judiciary and the Public Prosecutor's Office, a detailed report on the functioning of the penitentiary system. The report was prepared in order to provide the authorities with the results of active verification and to offer technical assistance on the part of ONUSAL to modernize and ensure the normal functioning of the penitentiary system within the framework of the administration of justice. The report in question established the need to declare an emergency situation in El Salvador's penitentiary system, drawing up an overall plan of action with the participation of the various institutions involved in the administration of justice.

51. The diagnosis set forth in the study establishes that the deficiencies found by ONUSAL two years ago in the penitentiary system remain unchanged. This was the case with regard to the penal defence service, under the Office of the Attorney General of the Republic, where it has been noted that most of the public defence attorneys disregard the trials. This situation is compounded by the lack of strict monitoring of negligent attorneys. Similarly, the serious deficiencies in informing defendants about their rights and obligations and the status of their trials as well as in communication between the judiciary and the penitentiary system continue to exist. The Division has been able to establish that the data in the possession of one or another institution vary enormously, giving rise to confusion.

52. Another finding in the study indicates that in spite of the establishment of legislative mechanisms, such as the Emergency Act concerning Unsentenced Prisoners, the delay in the administration of justice constitutes one of the main causes of the crisis in the penitentiary system. Out of a total of 5,976 inmates in the country on 31 July 1994, only 1,191 have been tried, while another 4,785 - the equivalent of 80 per cent of the inmate population - are under prosecution.

53. In view of these and other factors, it is recommended that an emergency situation should be declared in the penitentiary system and a number of suggestions be made for various institutions, on the basis of which the situation could begin to be dealt with in the short and medium term, reorienting El Salvador's criminology policy.

54. Thus, it has been recommended that the Supreme Court of Justice should issue general instructions to criminal court judges to carry out a review of the cases with defendants present, in the country's various detention centres. Likewise, it is recommended that judges should be instructed that discretionary use of temporary detention should be invoked as an exceptional measure, thereby lessening prison overcrowding. It has also been recommended that the Court should ensure that detention centres receive the indictment documents and are informed of changes in the category of offences, transfers of jurisdiction as well as any other circumstances that may affect the legal situation of

defendants; that steps should be taken to improve conditions to guarantee observance of the time-limits for preliminary investigations and reaching a verdict, as well as speed of communication with the penitentiary system concerning punishment imposed; that the monitoring of the work by prison officers should be improved; that the application of court-awarded prison-release benefits and the mechanisms of conditional stay of sentence execution and parole should be encouraged and promoted under the terms specified by law. Lastly, it has been recommended that the Court should exercise the powers provided for under the law to replace negligent defence attorneys, notifying the Attorney General's Office in cases in which its officials are responsible for irregularities.

55. The report recommends that the National Council of the Judiciary use as criteria for evaluating judges' delays in the administration of justice for which they are responsible in cases where defendants are imprisoned, overall achievement of the objectives of prison visits and technical competence and readiness in applying prison-release benefits or other benefits of a similar nature.

56. It has been recommended that the Attorney General's Office, inter alia, should instruct public prosecutors with regard to the orderly and timely manner in which they should administer appeals with regard to judicial decisions involving the release of defendants; that monitoring by the public prosecutors of mandatory prison visits should be guaranteed under the terms provided for by law; and that staff from the Attorney General's Office should be assigned to National Civil Police posts in order to supervise and direct criminal investigations.

57. It has been recommended that the Attorney General's Office should require public defence attorneys to act more diligently in trials with defendants present, establishing internal mechanisms to monitor work carried out and the number of visits made to defendants, apply severe sanctions against defence attorneys who are negligent in discharging their functions and assign agents to National Civil Police posts in order to guarantee the right of detainees to defence.

58. Some recommendations have also been made to the Office of the National Council for the Defence of Human Rights urging it to monitor more closely the penitentiary situation, maintain census records and reliable statistics with basic data on the prison population, and put forward suggestions for drawing up a single penitentiary code of regulations to govern the administration of all detention centres in the country.

59. A large number of recommendations have been made to the penitentiary system itself. They include ones to: establish suitable mechanisms for updating documentation on the situation with regard to the trials of defendants; transmit every three months to each criminal court judge the list of defendants assigned to him; set up measures to review the way in which defendants' records are kept; ensure compliance with requests for the appearance of defendants before judges; establish clear guidelines governing decisions to transfer defendants in consultation with the judiciary; take immediate measures to begin the classification and placing of defendants in penitentiaries; establish a policy

for training penitentiary personnel; set up mechanisms for periodically evaluating penitentiary personnel; recognize the existence and role of prisoners' committees as spokesmen for requests by the inmate population; and unify penitentiary regulations.

60. The Human Rights Division has put forward recommendations to the Legislative Assembly calling upon it to carry out a study and urgently adopt comprehensive penal-system reforms and, in the meanwhile, enact provisional legislation approving the reduction of temporary detention and expansion of the scope of the Emergency Act concerning Unsentenced Prisoners, legislate measures for the effective application of penalties other than deprivation of freedom, and approve a suitable budget for the penitentiary system.

61. In addition to the recommendation to declare an emergency situation in the national penitentiary system, it is recommended that the central Government ensure that the Ministry of Justice gives priority to budgetary resources for the penitentiary system, promote implementation of the recommendations made to the other bodies and encourage private enterprise to participate in creating and developing work activities in the prisons.

62. The Human Rights Division will continue to monitor the penitentiary situation in El Salvador and provide the necessary technical assistance to carry out the recommendations made.

F. Non-governmental organizations

63. A robust and dynamic civil society is a basic pillar of a democratic State. Non-governmental organizations in the field of human rights are a very important factor in this area. During the armed conflict in El Salvador, non-governmental organizations played a decisive role in publicly reporting human rights violations. Many of their members paid for this with their lives. Since the signing of the peace Agreements, with the gradual improvements in respect for human rights and progress in the reform process within State institutions, new challenges and alternative courses of action have come about and the response to them by the various non-governmental organizations has been uneven.

64. On 8 September, the Human Rights Division conducted a seminar with non-governmental human rights organizations to consider the new role to be played by them and expand their work in anticipation of completion of the mandate of ONUSAL. At that meeting, in which the Inter-American Institute of Human Rights took part, the participants were requested to consider, among other matters, the way in which non-governmental organizations could assume in the near future the task, currently being carried out by ONUSAL, of verification and providing support to institutions reformed or established on the basis of the peace agreements as well as the way to take into account the new areas for developing purposeful work.

65. There was general agreement that the non-governmental human rights organizations should strive to strengthen civil society and that they can be instrumental in supporting and monitoring State bodies. In that regard, it was agreed that it was necessary to change organizational structures and work

methods in order to be able to play an effective role in the new public arena which a State based on the rule of law provided.

66. In this connection, the need arises to promote thematic specialization and complementarity in the work of the non-governmental organizations and also consider the real possibilities of acquiring financial resources and improving their ability to serve as rallying points. In the country's new framework, professionalization, specialization, efficiency and systematization are urgent needs on the part of the non-governmental organizations.

67. In view of the new opportunities for non-governmental organizations in building a State based on the rule of law, it is regrettable to note the real decrease in the levels of external financing, precisely at a time when the continuity of financial assistance is more important. In this regard, I reiterate the appeal made in my previous report calling upon the international community to continue to provide financial and technical support to the non-governmental organizations that are making progress in professionalization and are adapting their work methods and approach to the question of human rights to the new realities in El Salvador.

G. The armed forces

68. The Human Rights Division is continuing to provide support for developing the new doctrine of the armed forces. Various courses and lectures on relations between the army and society have been given during this period. A human rights course within the advanced infantry course was given in July for lieutenants before their promotion to the rank of captain, and a similar course was given in September as part of the Staff course for captains before promotion to the rank of major.

69. In addition, the Human Rights Division, in cooperation with the Ministry of Defence, prepared and published the book "Military Doctrine and Relations between the Army and Society", which consists of a series of essays on human rights, military sociology, military morality in a democracy and relations between the army and society within the framework of a constitutional system.

III. REVIEW OF ACTIVE VERIFICATION OF THE HUMAN RIGHTS SITUATION

A. Right to life

70. During the reporting period, 46 complaints of right-to-life violations were received. Of note are cases of death resulting from excessive use of force by the National Civil Police. I am also concerned at deaths resulting from violence within the country's prisons. While these cannot be directly attributed to agents of the State, they are ultimately the result of the State's failure to guarantee personal safety, particularly when, as is the case of prisoners, the victims are in State custody. Héctor Corea Torres and Roberto Mejía Boruca, held in La Unión prison, and Alberto Flores,

Nelson Amilcar Escobar and Carlos Cruz Jiménez, held in the San Vicente detention centre, died in riots during this period.

1. Arbitrary or extralegal executions

71. During this period, 18 complaints of arbitrary execution were received, continuing the slight downward trend.

72. Rodolfo Iraheta Contreras. On 16 September 1994, a heated argument began between the victim (68 years old), his son and his companion at his home in Comunidad Iberia, San Salvador. At that moment members of the National Civil Police arrived and ordered the victim to go out into the street. When Iraheta refused, maintaining that he was in his own home, one of the policemen fired into the dwelling, wounding the victim in the abdomen. The police took him to the hospital. Iraheta died from his wound on 26 September.

73. Pedro Osmín Iraheta. On 7 August 1994, at around 6.30 p.m. on a local road in San Felipe canton, San Vicente, Mr. Iraheta died after being shot by members of the National Civil Police. The victim, who was accompanied by a child of eight, was apparently drunk and driving a truck. According to the police, as the victim drove by in his truck a police officer ordered him to stop; the vehicle stopped, and when the officer said he had to search the truck the driver refused to let him, took a pistol from above the steering wheel, struggled with the officer and drove off. The police officer then alerted his colleagues further on. Iraheta drove straight at the officers, who had no alternative but to open fire. Iraheta died of a bullet to the head.

74. However, the child travelling with Iraheta (his nephew) reported that as they were driving along the road he saw some police officers walking; he heard no order to stop, only shouts to "make him stop, stop him". Then he heard shots and his uncle fell on top of him. He says his uncle kept the pistol under the seat and that the police officer took it from there together with the papers. After that the police moved the vehicle, driving it until it ran out of fuel. This amounts to tampering with the scene of the crime. The bullet which killed Iraheta was not found, although it should have remained inside the cab or in the victim's hat, which was also removed.

75. It has been established that those who took part in the incident were David Alvarado Alvarado, José Isidro López Mejía, Henry Oswaldo Maeda Cáceres, José Salvador Lobo Cabrera, Manuel Wilfredo Pino Molina, Juan Gilberto Martínez, Edgardo Antonio Gómez and José Henríquez Ortiz, who were detained by order of the relevant court. It has been established that the National Civil Police in San Vicente attempted to obstruct the investigation.

76. Orlando Saravia Rodríquez. On 18 September 1994, in El Tránsito, Department of San Miguel, Saravia was shot by members of the National Civil Police in the course of an operation. The police claim that, as the pick-up truck they were driving was overtaking the bicycle the victim was riding, the latter stopped and aimed at a policeman, holding a pistol with both hands and firing three times. The officer fired twice in response. According to eyewitnesses, Saravia was cycling along the road when he was overtaken by an

unmarked blue pick-up carrying several men and women in civilian clothes armed with rifles and pistols. Just then a woman travelling in the car fired twice at Saravia. Then the same woman and a man loaded the wounded man into the vehicle and drove away. The witnesses state that they heard only two shots.

77. Four hours later the people travelling in the pick-up, who were in fact members of the National Civil Police, delivered the victim's body to the San Miguel Institute of Forensic Medicine. They explained the delay by saying that they had tried to take the victim to Usulután for medical attention, but that he had died along the way. As they returned, the vehicle had broken down and they had been obliged to find another one. Upon their arrival at the Institute, one member of the National Civil Police refused to hand over to the judge a weapon confiscated from the victim. Two 9-millimetre cartridge cases, which the police say they had recovered from the scene, were also not turned over to the court. While there are grounds for the police claim that the victim had fired, it should be noted that the police were in civilian clothes, that they did not identify themselves as police officers and that there were enough of them to defuse any threat without firing on the victim. One must conclude that the police action did not fall within the regulatory framework governing the legitimate use of firearms.

2. Death threats

78. It is encouraging to note that, during the reporting period, the number of complaints of death threats fell considerably, from 41 in April, May and June to 18 in the following three months. This reduction might be explained by the fact that the elections are now over.

79. Elías Gutiérrez. On Thursday, 30 June, Miguel Angel Cruz López, judge at the Tejutla court of first instance, had a traffic accident while passing another vehicle. He was driving an official car of the Supreme Court of Justice while highly intoxicated.

80. Between 5 p.m. and 6 p.m., Mr. Cruz López, accompanied by Oscar Guardado Calderón, justice of the peace and court secretary in La Reina; José Rafael Quintanilla, assistant justice of the peace in Nueva Concepción, and his brother, Cruz Chavarría Quintanilla; José Antonio Flores, justice of the peace and court secretary in Agua Caliente, went to the police station in La Reina and asked two officers to go with them to look for the red pick-up allegedly responsible for the accident. The station commander agreed and they all went in search of Elías Gutiérrez, who owned a vehicle of that description. When they found the suspect, Mr. Cruz López blocked the road with his car, took out a gun and pointed it at Gutiérrez. The judges from La Reina and Nueva Concepción did the same, the latter aiming at Mr. Gutiérrez's companion. On seeing this, the two police officers accompanying the judges, José Jacobo Vásquez Rivera and Wilfredo González Lana, placed themselves between the attackers and their victim, ordering the judges to hand over their weapons. Mr. Cruz López pointed his weapon at the policemen, saying that they had no authority to take away his weapon; only after his other companions intervened did he agree to put his gun away, although at no time did he agree to give it up.

81. ONUSAL investigations have found sufficient indications that Judge Cruz López was intoxicated at the time of the accident. Furthermore, his threats with a firearm have been reliably corroborated, by his own admission and by the justices of the peace of Nueva Concepción and La Reina. This case is particularly serious, since it concerns a judge of the Republic.

82. On Saturday, 17 September, Rubén Sánchez, Urban Commander of the Ejército Revolucionario del Pueblo during the war and currently the western region political director for the Santa Ana section of Expresión Renovadora del Pueblo, received a letter at home signed by an irregular group calling itself the Ejército Secreto Anticomunista which warned him of his impending execution. According to the complainant, his fellow party members do not know his home address, as he does not give it out for reasons of personal security.

83. One attempt has already been made on his life at the time of the signing of the peace agreements in 1992, when he was ambushed by persons unknown. They shot at him and seriously wounded him in the lower right leg. He was recently hospitalized in Germany to regain mobility. The authors of the letter are aware of his condition, referring to it in the sentence "The job's been started - you can't even run."

84. He was also a victim of one of the operations carried out on 22 August 1994 by the National Police anti-crime Squad in the Santa Ana Volcano region. When ONUSAL received the complaint, his identity was withheld at his express request as he feared reprisals.

85. A member of Expresión Renovadora del Pueblo who is permanently stationed at the party office has stated that, in the week before this threat, three people in a Toyota extra-cab pick-up with tinted windows had been observed, apparently watching the premises. One of them, who was riding in the back of the pick-up, was carrying a rifle and had two pistols in his belt.

86. Alex Rubio Ramírez, Coordinator for the Frente Farabundo Martí para la Liberación Nacional (FMLN) in Jayaque, received a telephone call at his home on 8 July from an unidentified person who threatened his life. Similar calls were made on 18 and 22 July by the same person. At no time were the motive or the name of the organization specified. Mr. Rubio Ramírez filed complaints with the judicial authorities on 17 August and with the Office of the National Counsel for the Defence of Human Rights on 18 August.

87. ONUSAL contacted Sergeant Iraheta, second-in-command of the National Police station in Jayaque, and informed him of the threats that were being made against Mr. Rubio Ramírez. ONUSAL is reliably informed that the investigation of the threats has been neglected, and has suggested the appointment of a special prosecutor to expedite the investigation.

88. The complainant's personal background provides no clear motive for the threats, but political motivation would appear to be the most plausible, since he is active as a local FMLN leader.

B. Right to integrity of person

1. Torture

89. During the three-month period covered by this report, three complaints of torture were received. One case was fully substantiated after verification, members of the National Civil Police are seriously implicated in the second, and in the third, investigations are still proceeding.

90. Carlos Alberto and Miguel Ángel Grande Menjívar. At 4 a.m. on 29 July, six members of the National Civil Police arrived at the home of the victims, which is located in the settlement of El Calvario, Department of la Libertad. One of the policemen has been identified as Francisco Antonio Cornejo. They identified themselves as members of the Special Anti-drug Trafficking Unit and conducted a violent search of the house for weapons.

91. At 8.30 p.m. on 11 August, five uniformed police officers arrived, dressed in blue trousers and cream-coloured shirts and accompanied by two people in plain clothes. On this occasion, the individuals' faces were concealed by hoods. They entered the dwelling and immediately proceeded to beat the brothers Carlos Alberto and Miguel Ángel Grande. They then tied up the two young men, dragged them out of the building and took them away in two vehicles which had been parked nearby. They drove around until they found a sufficiently isolated place, where they stopped. They interrogated the blindfolded victims one at a time, kicking and punching them, and asking them where they had put some weapons they supposedly possessed. Subsequently, they put plastic bags over their heads. Miguel Ángel, aged 16, was subjected to cigarette burns, particularly on the chest and on one of his hands. They also put a rifle barrel in him mouth and pulled the trigger, but the weapon was not loaded. The object of all this was to make them reveal the whereabouts of their brother Gonzalo, whom they accused of killing Jorge Turcios.

92. The forensic report describes multiple injuries to the victims; these were also observed by ONUSAL and by the Office of the National Counsel for the Defence of Human Rights. The ONUSAL investigation has revealed that on 29 July, officer Francisco Cornejo, accompanied by other members of the National Civil Police, arrived at the scene in search of Gonzalo Grande, who was reputed to be a dangerous individual and to have killed two people, one of whom was José Turcios, the brother of Cornejo. Given the possible involvement of the victims' brother in the killing of José Turcios, the brother of the police officer, this may be a case of the police "taking the law into their own hands".

93. ONUSAL is aware that the Disciplinary Investigation Unit of the National Civil Police is concerned at the seriousness of these complaints and intends to take all necessary steps to remove any officers guilty of human rights violations from the force. Thus far, however, the National Civil Police has not responded to the request from the Office of the National Counsel for a case report. There is reliable evidence that officer Francisco Cornejo took part in the reported events, and the case is being kept open for further investigation.

94. Joel Gómez Carpio. At 8.30 p.m. on 14 August, the victim, a bus conductor, was beaten by two members of the National Civil Police in Soyapango who had

allegedly been summoned by a neighbour who claimed that Gómez had broken a window. They gave the victim a thrashing and left him there; as a result of the blows received, he had to be taken by neighbours to a treatment centre, and from there to Rosales Hospital, where he underwent surgery. He was discharged on 26 August.

95. The investigation conducted in cooperation with the Office of the National Counsel for the Defence of Human Rights has yielded evidence to indicate that National Civil Police members Nelson Ignacio Calles Escobar (identification No. 2296) and Rigoberto Misael Díaz Mejía (identification No. 2344) are indeed guilty of the acts of which they are accused.

2. Ill-treatment

96. Accusations of ill-treatment have fallen slightly as compared with the previous period. One significant fact is that in many cases of ill-treatment, the victims were also found to have been arbitrarily detained.

97. Manuel Quintanilla Arias and José Alejandro Mendoza.
Manuel Quintanilla Arias, aged 14, was in San Miguel selling pineapples from a pick-up truck with his father, Miguel Ángel Quintanilla, when the municipal police arrived and told them that if they continued to sell in that place they would be arrested. According to the boy, he answered that they would leave immediately and moved towards the cab of the truck. At that moment a police officer seized him by the neck with both hands, lifted him up, pinned him against the railings of the ANTEL telephone company office and made some coarse remarks. He then let go of him and took a bicycle belonging to the boy to the police station.

98. A customer who was buying pineapples, José Alejandro Mendoza, seeing the police officer assault the boy, intervened and told the three officers remaining on the scene "that they should leave him alone because he wasn't doing anything, and that they shouldn't mistreat him". On hearing this, the officers initially told him not to interfere, or else they would take him away, too. One of the police officers then seized him by the trousers and began kicking and punching him and hitting him with his rifle butt; an officer in plain clothes then rode up on a bicycle and immediately punched him in the mouth and made more coarse remarks. He was then taken to the police station.

99. Roberto Quiñones. On 23 August, the victim was arrested by members of the National Civil Police in Ilopango and taken to jail at the local police station. There he was beaten by a number of National Civil Police officers, receiving serious injuries which were later noted by the Institute of Forensic Medicine. According to the officer in charge of the police unit, Quiñones and another prisoner, who were intoxicated, began to destroy the jail and even threatened the life of one of the officers. At this, the unit head ordered his men to "control the prisoners using as little force as necessary". From the investigation, ONUSAL has determined that the National Civil Police officers in Ilopango are guilty of the acts of which they are accused.

C. Right to security of person: enforced or involuntary disappearances

100. During the period covered by this report, two complaints of enforced disappearance were received. After verification, it was established that no one had disappeared and the whereabouts of the presumed victims were ascertained.

D. Right to liberty of person

101. In July, August and September 1994, ONUSAL registered 42 arbitrary detentions, which represented a percentage increase over the previous period.

102. Oscar Antonio Valdez and others. Mr. Wernes Martínez Romero reported that on 17 September the San Miguel Municipal Police arbitrarily detained the following people sleeping beside a truck: Oscar Antonio Váldez, José Enrique Zelaya, Juan Carlos Ruiz, Juan Abel Díaz, Santos Véliz Pérez, José Elmer Zelaya, Roberto Carlos Campos, Juan Rojas and Rosa Idalia López, a minor.

103. An ONUSAL check of the Municipal Police station confirmed that eight young men were being detained in the cells and a 15-year-old minor girl was being held in the building corridor. When asked for permission to consult the arrest book, the officer on duty said that a police report had not yet been filed, nearly 24 hours after the arrests, and that the prisoners had been arrested as "suspicious persons", pursuant to an order issued by the mayor. Although Mr. Wernes Martínez Romero left a deposit in the amount of the fine with the station chief in order to secure the release of his employees, their release was not ordered.

104. When questioned by ONUSAL, the mayor acknowledged that the Municipal Police had committed a few irregularities, which he justified as the result of the campaign to combat the crime wave sweeping the country. He was aware that the individuals in question were being detained allegedly on suspicion, but the 72-hour time-limit for ordering their release had not yet expired.

IV. CONCLUSIONS AND RECOMMENDATIONS

105. Progress in the transition to democracy and the consolidation of a State governed by law called for in the El Salvador peace agreements can be seen in the clearly visible change in the country's political and social climate. A gradual expansion of opportunities seems to be convincing people that dialogue and consultation are legitimate democratic vehicles for social relations and the settlement of disputes and to be discrediting the use of violence at all levels. The result is an atmosphere of diminished tension and renewed calm within which the rights and freedoms of the individual can be exercised.

106. The progressive decline in the number of complaints declared admissible by ONUSAL since September 1991 is a useful indicator of the overall gradual improvement in the human rights situation, notwithstanding the reservations I have expressed in past reports. In September 1993 alone, for example, ONUSAL

received 163 complaints of violations of fundamental rights, as compared with 58 complaints in September 1994. It is noteworthy that there have been no enforced disappearances in El Salvador for over two years, an unprecedented absence in Latin America during transitions to democracy. It is also significant that in September 1991 alone ONUSAL declared 119 complaints of arbitrary detention admissible, but only 13 in September 1994.

107. With respect to the right to life, in addition to the gradual decrease in the number of complaints of arbitrary executions, there has been an obvious change in the nature of the violations reported, which less and less often present the shady characteristics of previous periods, such as political motivation and premeditation. The arbitrary executions reported during this period are explained chiefly by police inexperience in the legitimate exercise of force, a shortcoming that must be promptly corrected.

108. It is encouraging that during the reporting period no politically motivated violations of the right to life were noted. This can be explained in large measure by the political liberalization and democratization of the country, together with the response by the State, Salvadorian society and the international community to the ominous period of selective violence in the second half of 1993 directed at citizens who were openly involved in politics. The cooperation of the international community in looking into these incidents, as evidenced by the participation of foreign investigators in police investigations at the invitation of the Government and, at a very basic level, by the creation, at the suggestion of the Secretary-General, of the Joint Unit for the Investigation of Illegal Armed Groups having Political Motivations, seems to have served as a deterrent to political violence.

109. More importantly, however, it is necessary to eradicate definitively all vestiges of the practice of using violence for political purposes and to dismantle the mechanism through which it operates: organized crime. This can be accomplished only by strengthening and consolidating the institutions responsible for criminal investigation and the administration of justice, which will mean lifting the veil of impunity that currently conceals these crimes and makes a resurgence of politically motivated violence possible. For this reason the recommendations of the Joint Unit for the Investigation of Illegal Armed Groups having Political Motivations - that the Office of the Attorney-General continue its investigations of the cases before it and that it form a special unit for the investigation of politically motivated crimes within the Criminal Investigation Section of the National Civil Police - are indeed appropriate.

110. The continued existence of organized crime networks, some of which would appear to involve current members of security forces in cover-ups or their actual operations and enjoy a margin of impunity as a result of weaknesses in the judicial system, constitutes one of the most serious threats to the peace process and democracy in El Salvador. With their sophisticated organization and infrastructure, these criminal structures are not only able to operate in the everyday criminal world but, when necessary, can also direct their machinery against politically active groups or individuals. It is easy to find examples in Latin America of how serious the failure to combat and eradicate criminal organizations promptly can be for political and social stability.

111. The process of institution-building is beginning to overcome initial difficulties and get truly under way. During the reporting period, progress was achieved within the judicial system, the Office of the National Counsel for the Defence of Human Rights and the National Civil Police, and the prospects for carrying out hitherto unimplemented recommendations on the administration of justice and human rights have improved.

112. The Legislative Assembly's election by consensus of a new Supreme Court of Justice is an important step towards guaranteeing the autonomy and impartiality that the chief judicial body requires and will also foster further judicial reform. The new Court's determination to promote this process can already be seen in a number of measures to reorganize the court system and in the Court's manifest intention to purify the judiciary. The results of these efforts would have optimal effect if emphasis was placed on the ongoing professionalization of members of the judicial system and a strategy for the comprehensive training of judges and government procurators with a view to identifying the new qualifications such officials should possess in a democratic judicial system which deserves the support of the international community.

113. The biggest obstacle to the process of institution-building is the delay in enacting certain legal reforms. This view is corroborated by an anonymous survey conducted among government procurators, justices of the peace and judges of courts of first instance regarding the main deficiencies in the administration of justice. Similarly, the enhancing of measures for the protection of human rights in El Salvador is contingent upon the adoption of the various international instruments and acceptance of the competence of the Inter-American Court of Human Rights, neither of which has occurred despite repeated recommendations. All of this leads me to suggest that the members of the Supreme Court of Justice should press the Legislative Assembly to approve the pending reforms soon.

114. The Office of the National Counsel for the Defence of Human Rights has made progress in strengthening its institutional capacity. Its involvement in technical cooperation activities and its implementation in July with the Human Rights Division of a joint verification mechanism have been decisive in enabling the Office to broaden and strengthen human rights protection and in improving its ability to take over the verification activities currently performed by ONUSAL when ONUSAL leaves the country. However, the Government and the Legislative Assembly need to budget sufficient funds for the Office's requirements, given its cooperation with ONUSAL in the overhaul of the Office's monitoring system and the need for it to continue to operate throughout the country.

115. At this stage, the progress made in deploying the National Civil Police should be accompanied by increased professionalism and specialization in police activities, a strengthening of internal police control mechanisms and a clearer definition of the Force's chain of command. The appointment of an Inspector-General of the National Civil Police during this period represents a significant advance. Changes in the National Civil Police must be accompanied by steps in the judiciary, the Office of the Chief State Counsel and the Office of the Attorney-General to overcome the deficiencies that hinder police activities, as

well as by improving linkages between the National Civil Police and the National Public Security Academy.

116. The problems in the penitentiary system confirmed by ONUSAL two years ago have yet to be solved. This situation, coupled with the successive riots in the country's detention centres, led me to suggest the declaration of a state of emergency in the penitentiary system. I have submitted to various State entities a series of proposals for the joint implementation of solutions to the crisis that go beyond improving the prison infrastructure. I have suggested the establishment of a comprehensive plan for reorienting Salvadorian criminal policy which would include the following measures. The Supreme Court of Justice should issue a series of instructions to judges regarding the discretional use of pre-trial detention, the notification of defendants of any circumstance which may affect their legal position and closer supervision over prison officials. The Office of the Attorney-General should instruct government procurators to be more selective in appealing pre-trial release orders and to the supervision and orientation of criminal investigations. The Office of the Chief State Counsel of the Republic should establish internal mechanisms for controlling the work of defence attorneys in trials where the defendant is present. These measures would complement others required of the central Government and the penitentiary system itself, such as increasing budget allocations and unifying the penitentiary regulations.

Notes

a/ General Assembly resolution 2200 A (XXI), annex.

b/ E/CN.4/Sub.2/1987/12/Add.1.

c/ International Legal Materials, vol. 28 (1989), pp. 161-169.

V. STATISTICS

Table 1

STATISTICAL ANALYSIS OF TRENDS OVER THE PERIOD JULY-SEPTEMBER 1994
(Twelfth report to the Secretary-General)

COMPLAINTS DECLARED ADMISSIBLE BY ONUSAL

Complaints declared admissible	July	August	September	Total
VIOLATIONS OF THE RIGHT TO LIFE				
Arbitrary executions	4	8	9	21
Attempted arbitrary executions	2	0	3	5
Death threats	9	7	4	20
VIOLATIONS OF THE RIGHT TO INTEGRITY OF PERSON				
Torture	1	2	0	3
Ill-treatment	10	10	5	25
Excessive use of force	6	6	3	15
VIOLATIONS OF THE RIGHT TO SECURITY OF PERSON				
Enforced disappearances	1	1	0	2
Abductions	2	2	1	5
Other threats	7	5	6	18
VIOLATIONS OF DUE PROCESS OF LAW				
PROCEDURAL GUARANTEES				
Right to be tried by a tribunal within a reasonable period of time	3	2	0	5
Right to defence	2	3	0	5
Right not to be coerced	3	2	0	5
Right to judicial review	0	0	0	0
RIGHT TO JUSTICE				
Legal obligation of the State to investigate and punish	11	8	9	28
Right to compensation	0	1	1	2
VIOLATIONS OF THE RIGHT TO PERSONAL FREEDOM				
Arbitrary detentions	20	10	13	43
Arbitrary detentions for petty misdemeanours	2	0	3	5
Procedural guarantees	8	3	0	11

Complaints declared admissible	July	August	September	Total
VIOLATIONS OF THE RIGHT TO FREEDOM OF EXPRESSION	0	0	0	0
VIOLATIONS OF THE RIGHT TO FREEDOM OF ASSOCIATION				
Right to associate freely	1	1	1	3
Freedom of assembly	0	0	0	0
Trade union freedom	0	0	1	1
VIOLATIONS OF THE RIGHT TO IDENTITY DOCUMENTS				
To obtain personal identification documents	0	0	0	0
To obtain civil status documents	0	0	0	0
TOTAL	92	71	59	222

Table 2

COMPLAINTS AGAINST THE NATIONAL CIVIL POLICE DECLARED ADMISSIBLE BY ONUSAL

1 July 1994 to 30 September 1994

Complaints declared admissible	National Civil Police	Confirmed	By category of right violated	Percentage
VIOLATIONS OF THE RIGHT TO LIFE			9	10.3
Arbitrary executions	8	3		
Attempted arbitrary executions	0	0		
Death threats	1	1		
VIOLATIONS OF THE RIGHT TO INTEGRITY OF PERSON			28	32.2
Torture	2	1		
Ill-treatment	13	3		
Excessive use of force	13	2		
VIOLATIONS OF THE RIGHT TO SECURITY OF PERSON			5	5.7
Enforced disappearances	0	0		
Abductions	0	0		
Other threats	5	1		
VIOLATIONS OF DUE PROCESS OF LAW			8	9.2
PROCEDURAL GUARANTEES				
Right to be tried by a tribunal within a reasonable period of time	2	1		
Right to defence	1	1		
Right not to be coerced	0	0		
Right to judicial review	0	0		
RIGHT TO JUSTICE				
Legal obligation of the State to investigate and punish	5	0		
Right to compensation	0	0		

Complaints declared admissible	National Civil Police	Confirmed	By category of right violated	Percentage
VIOLATIONS OF THE RIGHT TO PERSONAL FREEDOM			37	42.5
Arbitrary detentions	29	9		
Arbitrary detentions for petty misdemeanours	2	0		
Procedural guarantees	6	4		
TOTAL	87	26		100

Table 3

PERSONS PRESUMED RESPONSIBLE FOR VIOLATIONS

July-September 1994

(Period covered by the twelfth report to the Secretary-General)

Persons presumed responsible	July	August	September	Total	Percentage
Members of national police	20	9	2	31	14.0
Irregular groups	1	1	1	3	1.4
Persons unknown	12	11	11	34	15.3
Members of municipal police	4	1	3	8	3.6
Members of National Civil Police	32	25	27	84	37.8
Members of armed forces	1	4	2	7	3.2
Public prosecutor's office	0	0	0	0	0.0
Administration	1	1	1	3	1.4
Judiciary	18	13	9	40	18.0
Anti-drug Trafficking Unit	1	1	0	2	0.9
Criminal Investigation Commission	0	0	0	0	0.0
FMLN	0	0	0	0	0.0
Others	2	5	3	10	4.5
TOTAL	92	71	59	222	100.0

Table 4

COMPLAINTS DECLARED ADMISSIBLE BY CATEGORY OF RIGHT VIOLATED

July-September 1994

(Percentage)

Violation	July	August	September	Total
Life	16.30	21.13	27.12	21.52
Integrity	18.48	25.35	13.56	19.13
Security	10.87	11.27	11.86	11.33
Due process	20.65	22.53	16.95	20.04
Personal freedom	32.61	18.31	27.12	26.01
Freedom of expression	0.00	0.00	0.00	0.00
Freedom of association	1.09	1.41	3.39	1.96
Personal documentation	0.00	0.00	0.00	0.00
TOTAL	100.00	100.00	100.00	100.00

Table 5

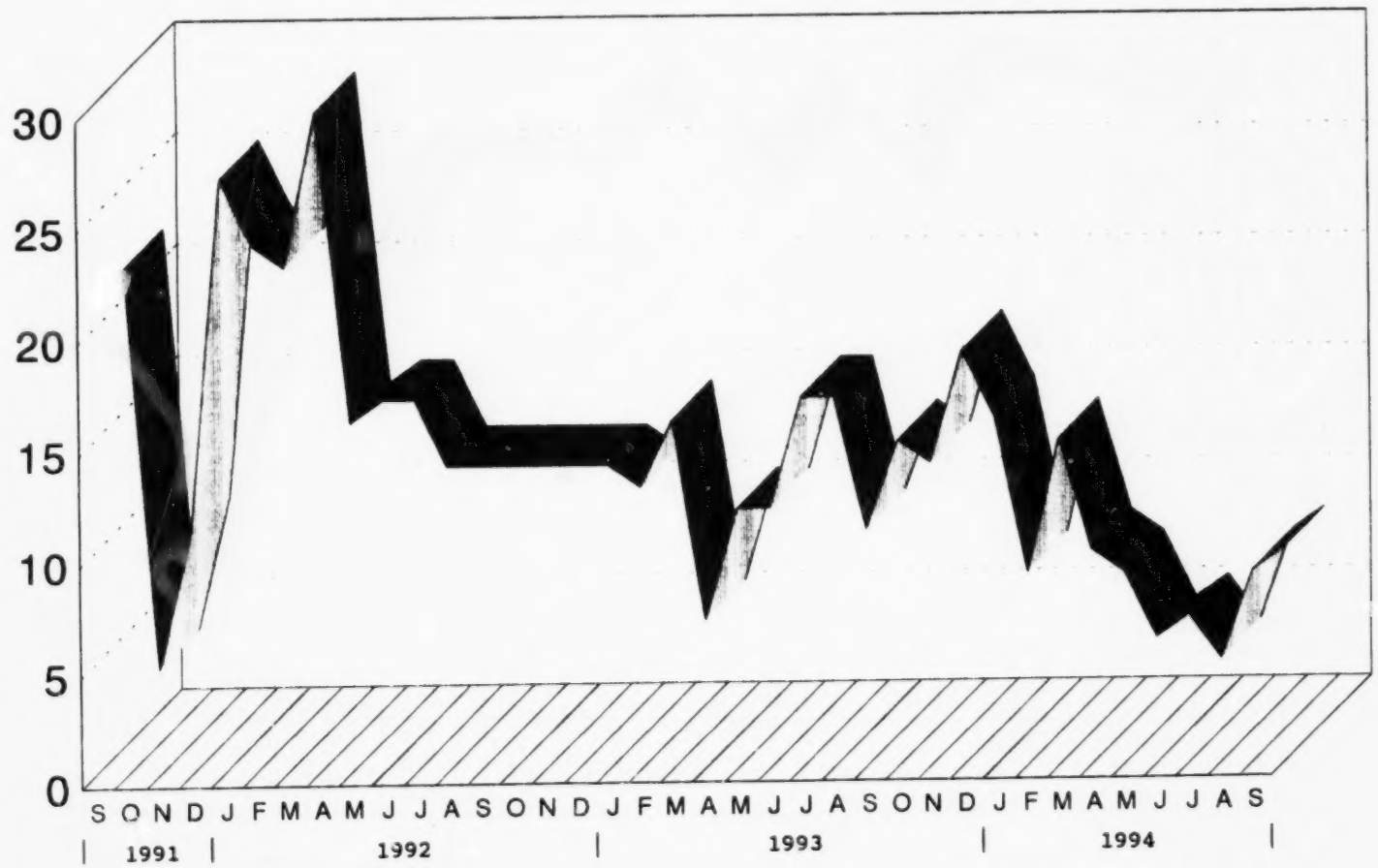
COMPLAINTS DECLARED ADMISSIBLE BY ONUSAL DURING THE PERIOD AUGUST 1992-SEPTEMBER 1994

	1992	1993												1994									
COMPLAINTS DECLARED ADMISSIBLE	Sub-total Aug-Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Total
VIOLATIONS OF THE RIGHT TO LIFE																							
Arbitrary executions	94	12	15	6	11	11	16	16	10	14	13	18	15	8	14	9	8	5	6	4	8	9	322
Attempted arbitrary executions	7	2	1	2	3	3	1	5	2	4	4	4	2	0	6	3	4	2	0	2	0	3	60
Death threats	157	8	19	17	11	6	9	25	17	27	7	34	11	10	22	18	19	14	8	9	7	4	459
VIOLATIONS OF THE RIGHT TO INTEGRITY OF PERSON																							
Torture	5	0	2	0	1	1	1	0	0	4	0	0	2	1	2	0	0	2	1	1	2	0	25
Ill-treatment	182	15	21	28	12	11	15	16	9	21	9	15	12	8	5	4	6	17	9	10	10	5	440
Excessive use of force	3	3	4	6	7	2	5	10	6	5	1	4	5	5	5	4	3	6	1	6	6	3	100
VIOLATIONS OF THE RIGHT TO SECURITY OF PERSON																							
Enforced disappearances	8	0	3	0	1	0	1	0	1	1	1	1	1	1	0	1	0	0	0	1	1	0	22
Abductions	25	2	0	3	2	1	0	4	5	1	0	7	1	1	3	9	4	0	2	2	2	1	75
Other threats	16	8	9	14	15	14	16	16	14	14	15	22	11	11	3	20	16	5	3	7	5	6	260
VIOLATIONS OF DUE PROCESS OF LAW																							
PROCEDURAL GUARANTEES																							
Right to be tried by a tribunal within a reasonable period of time	21	0	0	0	0	1	0	1	0	0	0	4	3	5	5	2	0	0	1	3	2	0	48
Right to defence	3	8	12	2	6	4	4	5	2	3	4	0	3	1	0	0	2	0	1	2	3	0	65
Right not to be coerced	1	3	8	1	3	2	2	2	2	1	4	2	0	1	2	2	0	1	1	3	2	0	43
Right to judicial review	1	1	6	1	1	0	1	2	6	2	4	0	0	0	0	0	0	0	0	0	0	0	25

	1992	1993												1994									
COMPLAINTS DECLARED ADMISSIBLE	Sub-total Aug-Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Total
RIGHT TO JUSTICE																							0
Legal obligation of the State to investigate and punish	12	4	17	30	27	25	28	24	7	29	25	23	13	15	17	16	12	10	11	11	8	9	373
Right to compensation	2	0	1	0	0	0	0	1	0	0	1	0	1	1	0	0	0	0	1	0	1	1	10
VIOLATIONS OF THE RIGHT TO PERSONAL FREEDOM																							
Arbitrary detentions	188	16	16	10	17	31	25	18	12	24	32	15	11	5	7	7	11	14	7	20	10	13	509
Arbitrary detentions for petty misdemeanours	11	5	16	9	6	5	5	8	9	6	5	1	2	2	0	2	0	2	2	2	0	3	101
Procedural guarantees	40	5	4	2	2	2	11	2	3	0	4	10	3	3	1	1	5	2	5	8	3	0	116
VIOLATIONS OF THE RIGHT TO FREEDOM OF EXPRESSION		0	3	0	2	1	0	0	0	1	0	1	1	0	1	1	0	0	0	0	0	0	11
VIOLATIONS OF THE RIGHT TO FREEDOM OF ASSOCIATION																							
Right to associate freely	21	3	2	5	2	3	2	1	3	2	2	1	2	0	1	1	0	0	1	1	1	0	54
Freedom of assembly	0	1	0	1	0	0	0	0	0	0	0	0	0	1	2	0	0	0	0	0	0	0	5
Trade union freedom	12	1	0	0	0	3	1	0	1	2	1	0	0	0	0	0	0	1	0	0	0	1	23
VIOLATIONS OF THE RIGHT TO IDENTITY DOCUMENTS																							
To obtain personal identification documents	3	0	1	0	0	0	0	0	0	1	1	0	0	0	0	0	0	1	0	0	0	0	7
To obtain civil status documents	0	0	0	2	1	0	0	0	0	1	0	1	0	0	0	0	0	0	0	0	0	0	5
TOTAL	812	97	160	139	130	126	143	156	109	163	133	163	99	79	96	100	90	82	60	92	71	58	3 158

Table 6

ARBITRARY EXECUTIONS: COMPLAINTS DECLARED ADMISSIBLE BY ONUSAL



SEPTEMBER 1991-SEPTEMBER 1994

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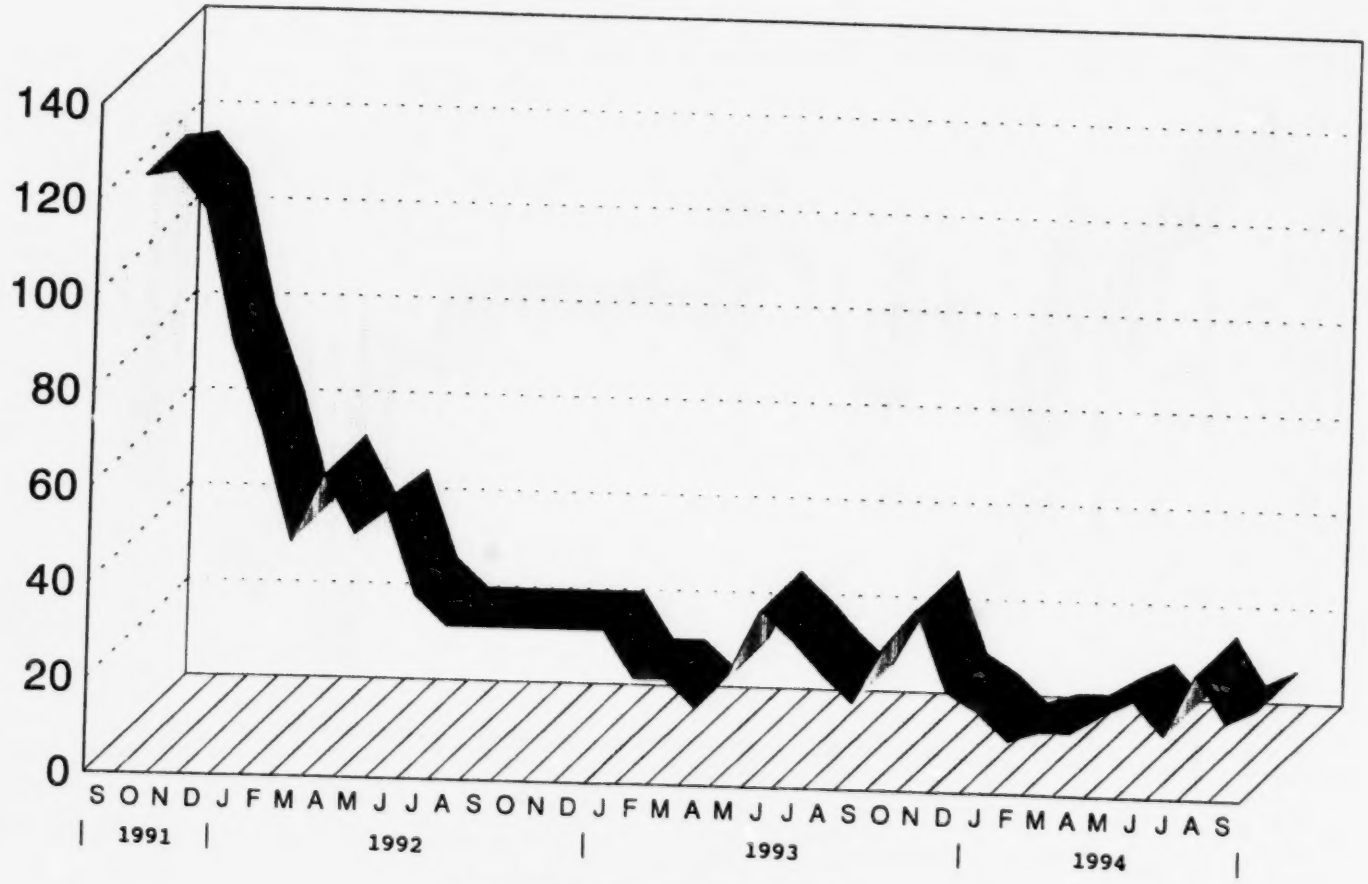
Table 7

ARBITRARY DETENTIONS: COMPLAINTS DECLARED ADMISSIBLE BY ONUSAL



SEPTEMBER 1991-SEPTEMBER 1994

Table 8

ENFORCED DISAPPEARANCES

Cases of enforced disappearances considered by the Working Group on Enforced or Involuntary Disappearances of the United Nations Commission on Human Rights during the 1980s	Complaints of enforced disappearances confirmed by ONUSAL, 1992-1994
2,219	0

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Agenda item 39

THE SITUATION IN BOSNIA AND HERZEGOVINA

Letter dated 26 October 1994 from the Chargé d'affaires a.i. of the Permanent Mission of Yugoslavia to the United Nations addressed to the Secretary-General

I am writing to you concerning agenda item 39 and, upon instructions of my Government, I have the honour to state the following.

The tragic and painful civil war in Bosnia and Herzegovina is a result of the unconstitutional and violent secession of that former republic from the Socialist Federal Republic of Yugoslavia against the will of one of its constituent peoples and is not a case of aggression.

By choosing to recognize the results of the referendum that sanctioned such a secession of Bosnia and Herzegovina from the former Socialist Federal Republic of Yugoslavia in which one of its constituent peoples, the Serbs, did not take part, the international community, disregarding the constitutional provisions, has granted the Croats and Muslims the right to decide on the fate of the Serb people in Bosnia and Herzegovina. Thus the constitutionally guaranteed right to self-determination, one of the fundamental human rights that was granted to all other peoples of the former Socialist Federal Republic of Yugoslavia, has been denied only to the Serb people. That was the major cause of the outbreak of the civil war.

The Bosnian Serbs had no other choice but to defend themselves in circumstances where the predominantly Muslim leadership of the former Yugoslav Republic of Bosnia and Herzegovina, particularly the members of the extremist Muslim Party of Democratic Action (SDA), provoked armed skirmishes that evolved into a full-fledged interethnic, interreligious and civil war. Therefore, it can certainly not be a case of aggression by the Bosnian Serb people, who have lived in Bosnia and Herzegovina for centuries, as is put forward by the Muslim propaganda and certain international circles. The Serbs, who according to real estate registers possess about 64 per cent of the entire land of Bosnia and Herzegovina, cannot be aggressors on their own territory. Being already the

victims of genocide in this century in Bosnia and Herzegovina, they simply did not allow history to be repeated and resorted to self-defence.

From the beginning of the crisis in Bosnia and Herzegovina, the leadership of the Bosnian Muslims had only one aim in mind - the establishment of a unitary State based on Muslim predominance despite the fact that Bosnia and Herzegovina is actually a predominantly Christian State (over 55 per cent: Orthodox Serbs over 34 per cent; Roman Catholic Croats 17 per cent; and others). The basic tenets of this policy were set forth in the "Islamic Declaration" by Alija Izetbegovic, which appeared in 1971 and was reissued in 1990. In that declaration, it is stated that "... first and foremost conclusion is certainly the incompatibility of Islam with non-Islamic systems. There can be neither peace nor coexistence between the Islamic religion and non-Islamic social and political institutions ...".

A clear confirmation that Mr. Izetbegovic and his party never departed from these aims, despite rhetorical calls for "the preservation of a multiethnic and multireligious Bosnia and Herzegovina", is a continuous drive towards the full Islamization of Bosnian society. The latest examples are the rejection of mixed marriages, the compulsory introduction of Arabic in schools, the prohibition of the sale of pork, etc. Naturally, the Serb and Croat population in Bosnia and Herzegovina could not accept such a policy, which is now severely straining the Croat-Muslim federation as well.

It should be noted that the "Muslim nationality" was a politically motivated invention of the then regime in the former Socialist Federal Republic of Yugoslavia. The Muslim Slav population, actually Serbs or Croats who converted to Islam under the pressure of the Ottoman Empire, were declared to be a nation only in 1971, which is the first time in history that a religious group has been given a status of a nation.

The international community is well aware of the fact that the key decision makers on the recognition of Bosnia and Herzegovina subsequently conceded that such a decision was wrong and premature and that it directly contributed to the tragic chain of events that followed.

Numerous statements of other leading political figures, including former President of the Conference on Yugoslavia Lord Carrington, special representative of the Secretary-General Cyrus Vance, former Italian Foreign Minister Gianni De Michelis, the Co-Chairman of the International Conference on the former Yugoslavia, Lord Owen, as well as former United States Secretary of State James Baker, the President of the European Union, Jacques Delors, and former French Foreign Minister Roland Dumas, to mention but a few, have all underlined the mistake of the premature recognition of the former Yugoslav republics before an overall political settlement was reached, which indeed triggered the civil war. Dr. Henry Kissinger, former United States Secretary of State, said in a commentary to The New York Times of 25 February 1993, that Bosnia was not a nation except in a geographical sense. He added that there were no Bosnians per se and that it remained unclear why it should have ever been thought that the same ethnic groups that had refused to coexist in a relatively large Yugoslavia would be able to coexist in tiny Bosnia. These

statements, though belated, confirmed the position that the Federal Republic of Yugoslavia advocated from the very outset of the Yugoslav crisis.

The Federal Republic of Yugoslavia has been falsely accused of involvement and territorial pretensions towards Bosnia and Herzegovina despite the fact that it repeatedly acknowledged and clearly stated in the Declaration of the Assembly of the Federal Republic of Yugoslavia of 27 April 1992 that it did not harbour any territorial pretensions towards any of the republics of the former Socialist Federal Republic of Yugoslavia.

At the time when the sanctions were imposed against the Federal Republic of Yugoslavia for alleged aggression, not a single member of the Army of Yugoslavia was outside its territory.

The international community acknowledged soon after the imposition of sanctions that the crisis in Bosnia and Herzegovina was not a consequence of the involvement of the Federal Republic of Yugoslavia but a true civil war with elements of interethnic and interreligious conflict.

Unfortunately, all those facts were deliberately ignored. The sanctions against the Federal Republic of Yugoslavia were not only kept in place but were strengthened although the Federal Republic of Yugoslavia clearly supported all major peace initiatives of the international community, a fact that was widely recognized.

Even though the Federal Republic of Yugoslavia has never accepted the reasons for which the sanctions have been imposed in the first place, it showed full cooperation with the international community and has met all conditions contained in the Security Council resolutions.

The Federal Republic of Yugoslavia has continually invested efforts with a view to reaching a peaceful and negotiated solution to the crisis in Bosnia and Herzegovina, firmly convinced that the only solution to the Bosnian crisis is a peaceful one, that the war brings only suffering, victims and destruction and that there can be no winners in the civil war. Yugoslavia is ready to accept any solution agreed to by the warring parties on the basis of full equality and respect of the legitimate rights of all three Bosnian peoples. Consequently, it is ready to recognize the former Yugoslav republics after all outstanding issues are resolved in negotiations among the parties concerned.

It should be recalled that the Federal Republic of Yugoslavia supported all peace plans, starting with the so-called Cutileiro plan for the political and territorial arrangement of Bosnia and Herzegovina, signed by all its three ethnic communities before the onset of the tragic conflict. However, even though the Muslim side accepted the plan at the beginning, it subsequently withdrew its approval under the influence of certain foreign Powers. The Bosnian Muslim leadership throughout the crisis and the civil war in Bosnia and Herzegovina has in essence been rejecting a great majority of peace proposals and has persisted in the war option. Moreover, by militarily provoking the Bosnian Serbs while accusing the international community of alleged inaction, it has sought to engage the North Atlantic Treaty Organization (NATO) to wage the war on the Muslim side against the Serbs.

The Federal Republic of Yugoslavia has strongly condemned the practice of "ethnic cleansing" committed by any side as a crime against humanity. Throughout the crisis and the civil war in Bosnia and Herzegovina, ethnic cleansing perpetrated against one side invariably triggered off ethnic cleansing against the other. The Federal Republic of Yugoslavia is opposed to each and every instance of ethnic cleansing. Unfortunately, drastic examples of crimes committed against the Serbs have been largely ignored. For the sake of historical truth, it should be pointed out that the first brutal examples of ethnic cleansing were carried out in the Neretva valley in western Herzegovina, which is now virtually cleansed of Serbs. Historical monuments representing landmarks of Serbian civilization have been razed to the ground throughout Bosnia and Herzegovina.

The Federal Republic of Yugoslavia did all within its powers to have the Serbs in Bosnia and Herzegovina accept the Vance-Owen plan.

The Federal Republic of Yugoslavia has supported, and the Bosnian Serbs accepted, the so-called Owen-Stoltenberg plan, which actually replaced the Vance-Owen plan subsequently abandoned by its authors. That plan was also rejected by the Muslim side. It has invested all its influence with the Serbs in Bosnia and Herzegovina that they accept the plan of action of the European Union based on the Juppé-Kinkel initiative, which they did.

The Federal Republic of Yugoslavia granted full support to the efforts of the Contact Group for Bosnia and Herzegovina in the searching for a peaceful solution within the framework of the "Geneva declaration".

The Yugoslav Government as well as the leaders of its two republics have publicly urged the Bosnian Serbs to accept the plan of the Contact Group as a way of enabling the resumption of the peace process. The Federal Government has asked the Bosnian Serb leadership to show its commitment towards peace and the peace process by taking an unequivocal positive stand on the Contact Group's proposal. In the choice between accepting a compromise peace or an escalation of the war, the Federal Republic of Yugoslavia has never hesitated to choose the option of peace. The sacrificing of peace was considered by the Government of the Federal Republic of Yugoslavia to be leading to a new and even bigger disaster.

Therefore, further insistence on the collective punishment of the people of the Federal Republic of Yugoslavia - coupled with the insistence of certain countries on the lifting of the arms embargo on Bosnia and Herzegovina - is an absurd policy. It would inevitably further inflame the conflict with unforeseeable consequences not only for Bosnia and Herzegovina but for the region as a whole, which cannot be the goal of the international community and those who are really in favour of a peaceful and comprehensive political settlement.

What is now really needed is the complete lifting of all sanctions, which the Security Council should consider as a matter of urgency. That would be the quickest and best way of obtaining a final political solution of the crisis in Bosnia and Herzegovina.

The Federal Republic of Yugoslavia firmly believes in the ongoing peace process and appeals to the Contact Group to continue its work so that a final solution be reached as soon as possible, and one that would accommodate the vital interests of all three peoples in Bosnia and Herzegovina. Any solution that would not be satisfactory to one of them could only further escalate the conflict. Any other option is fraught with risks with unforeseeable consequences, not only to the warring parties in Bosnia and Herzegovina, but to the international community as a whole.

Despite the fact that the international community has taken an unfounded negative stand towards the Federal Republic of Yugoslavia, the Government of the Federal Republic of Yugoslavia will continue, as it has done so far, to make its utmost contribution to the peace process in Bosnia and Herzegovina as well as to the resolution of all outstanding questions in the territory of the former Socialist Federal Republic of Yugoslavia, deeply convinced that there is no alternative to peace.

I should be grateful if you would have the present letter circulated as a document of the General Assembly under agenda item 39.

(Signed) Dragomir DJOKIC
Ambassador
Chargé d'affaires a.i.

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ADVANCEMENT OF WOMEN

HUMAN RESOURCES MANAGEMENT: OTHER HUMAN RESOURCES QUESTIONS

Improvement of the status of women in the Secretariat

Report of the Secretary-General

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I. INTRODUCTION

1. At its forty-eighth session, the General Assembly adopted resolution 48/106 of 20 December 1993 on the improvement of the status of women in the Secretariat. Recalling previous resolutions and decisions and in accordance with the Charter of the United Nations, the Assembly urged the Secretary-General to accord greater priority to the recruitment and promotion of women in posts subject to geographical distribution. In achieving the targets of 35 per cent in posts subject to geographical distribution and 25 per cent representation of women for posts at the D-1 level and above by 1995, set in resolutions 45/125 of 14 December 1990, 45/239 C of 21 December 1990, 46/100 of 16 December 1991 and 47/93 of 16 December 1992, particular attention was to be focused on senior policy-level and decision-making posts and on those areas of the Secretariat where the levels of representation were below average. In the resolution the Assembly also called for an increase in the representation levels of women from developing countries, particularly those which are unrepresented or underrepresented, including countries in transition.

2. To further the Secretary-General's efforts in this regard, the General Assembly, in resolution 48/106, called for a strengthening, from within existing resources, of the Focal Point for Women in the Secretariat "... to ensure authority of enforcement and responsibility of accountability and to enable it more effectively to monitor and facilitate progress in the 1995 action programme".

3. By resolution 48/106 and also resolution 48/108 of 20 December 1993 on the implementation of the Nairobi Forward-looking Strategies for the Advancement of Women, the General Assembly encouraged the support and active participation of Member States in improving the status of women in the Secretariat, through such measures as: identifying and submitting more women candidates, encouraging women to apply for vacant posts, creating national rosters, and sharing information with the Secretariat.

4. The past year has been marked by vigorous efforts by the Office of Human Resources Management (OHRM) to integrate the goals and targets for the improvement of the status of women into the overall strategy for the management of the Organization's human resources set out in document A/C.5/49/5. It is the view of the Secretary-General that the adoption of a pro-active, more people-centred human resources strategy built on the principles of the Charter will enhance the ability of the Secretariat to recruit and retain personnel of the highest calibre and integrity, and, within this context, serve as the most conducive means of enhancing the status of women. It is anticipated that strengthened planning capacity and career development, along with better conditions of service, will make it possible to attract and retain more women and enable the Secretariat to achieve the goals set by the General Assembly.

5. The present report is divided into three sections. Section II offers an account of the current status of women in the Secretariat in posts subject to geographical distribution, as at 30 June 1994. In keeping with the Secretary-General's view that the efforts to improve the status of women must include women in all categories, this section also reports on the representation of

women in posts with special language requirements and in the General Service and related categories. Section III provides an analysis of the constraints confronted by women and sheds light on actions that have been taken to improve the status of women. Section IV sets out the strategic plan of action for the improvement of the status of women in the Secretariat based on the 1991-1995 Action Programme. It translates the Secretary-General's pro-active policy for attainment of gender balance into tangible and measurable objectives, targets and measures; and an implementation plan which takes into account the existing attitudinal, administrative and managerial constraints. It also addresses the issues and concerns of women in other categories and reaffirms the Secretary-General's conviction that full gender parity must be achieved by the year 2000.

II. CURRENT SITUATION

A. Women in posts subject to geographical distribution

6. As shown in table 1, steady progress has been achieved since 30 June 1993, when the overall percentage of women in posts subject to geographical distribution was 31.3 per cent. By 30 June 1994, the percentage had risen to 32.6 per cent, representing a 1.3 percentage point increase. The percentage of women at levels D-1 and above, which was 12.3 per cent at 30 June 1993, rose to 15.1 per cent by 30 June 1994. Representation at the D-1 and D-2 levels increased from 12.8 and 13.6 in 1993 to 14.7 and 18.7, respectively, in 1994. It is significant that these increases were achieved at a time when the Organization was undergoing restructuring, a freeze on recruitment was in place until April of 1994, and a new system for placement and promotion was introduced.

7. In spite of the steady progress, the overall picture of representation at senior levels is below target. However, women at D-2 and D-1 levels increased by eight posts compared to 1993 figures. In addition, the welcome trend towards increased numbers of women at the P-5 levels has continued by the addition of 19 women, helping to form the critical mass at mid-level needed for the promotion of women staff members to the D-1 level and above. The slower progress in increasing the representation of women at the D-1 level and above is in some part due to the lack of seniority in grade of women promoted to the P-5 level in years before. Among other strategies, it will thus be important to identify qualified women with accumulated seniority, or, as appropriate, to invoke the mechanism of accelerated promotion for particularly deserving candidates. A strategy being utilized to prepare women for assumption of higher level managerial and supervisory posts is temporary assignment of women to higher level vacant posts and/or assigning them to duties of officer-in-charge.

8. A study undertaken by the Steering Committee for Improvement of the Status of Women in 1994 in Departments and Offices indicates that out of 26 surveyed, 10 have attained the overall 35 per cent target and five have reached the 25 per cent target and five have reached the 25 per cent target at the D-1 level and above, but the rest have fallen below expectations. Statistics thus bear out the Secretary-General's conclusion that the pace of progress must be accelerated and such measures as those set out in the strategic plan of action should be adopted if decisive action is to be taken to meet the targets.

Table 1. Number and percentage of staff in posts subject to geographical distribution

Level	30 June 1993				30 June 1994			
	Women	Men	Total	%	Women	Men	Total	%
USG	3	18	21	14.3	2	17	19	10.5
ASG	1	14	15	6.7	2	16	18	12.5
D-2	9	57	66	13.6	14	61	75	18.7
D-1	31	211	242	12.8	34	198	232	14.7
P-5	103	372	475	21.7	122	375	497	24.5
P-4	203	463	666	30.5	246	481	727	33.8
P-3	239	396	635	37.7	240	371	611	39.2
P-2	209	237	446	46.9	168	201	369	45.5
P-1	6	1	7	60.0	2	0	2	100.0
Total	804	1 769	2 573	31.3	830	1 720	2 550	32.6

Source: Reports of the Secretary-General on the composition of the Secretariat (A/48/559 and A/49/527).

9. As one means of reinforcing the application of measures to increase the representation of women at decision-making levels, the Secretary-General established in late 1993 a Senior Review Group for the filling of posts at the Director (D-2) and higher levels, levels which hitherto were not systematically subjected to such recruitment and promotion processes.

10. As indicated in table D1 in the report of the Secretary-General on the composition of the Secretariat (A/49/527), representation of women in posts subject to geographical distribution as a percentage of all staff in 1994 continued to show imbalances among regions and countries of origin. Eastern Europe (0.75), the Middle East (1.25) and Africa (2.94) registered the lowest representation among the regions. The highest percentages were registered by North America and the Caribbean (9.53), Western Europe (8.00) and Asia and the Pacific (6.78). It should be noted that the percentage for the Asia-Pacific region is based on representation mainly by Asia; the Pacific area is underrepresented. The regional imbalance is also reflected in the percentage of women staff grouped by region of origin as of 30 June 1994 (A/49/527, table D2).

Eastern Europe (2.29), the Middle East (3.86), Africa (9.04) and Latin America (9.52) have the lowest representation of women in a range from 2.29 per cent for Eastern Europe to 29.28 per cent for North America and the Caribbean.

11. Of the Member States within range or overrepresented, women account for approximately one third of the representation. Figures vary widely among countries, and more women are represented at the lower levels, P-1 to P-4 posts.

B. Women in posts subject to special language requirements

12. As shown in table 2, a comparative analysis of the status of women in posts with special language requirements covering the period 1975 through 1994 reveals a 4.9 per cent increase in the representation level of women, from 30.5 per cent in 1975 to 35.4 per cent in 1994. Further statistical analysis reveals that, however welcome this increase, the patterns of regional representation noted in respect of posts subject to geographical distribution prevail in this traditionally gender-blind category of Professional staff. There is every reason to believe that the active support of Member States in these regions in proposing women candidates to sit for a competitive language examinations will yield significant results in improving the status of women in posts with special language requirements.

Table 2. Percentage of women in posts with special language requirements 1975, 1980, 1985 and 1994 a/
(as at June of each year)

Levels	1975		1980		1985		1994	
	M	F	M	F	M	F	M	F
P-5	33	11	41	15	108	39	95	36
P-4	145	49	169	83	226	122	211	130
P-3	227	126	279	150	218	113	230	120
P-2	111	39	89	43	130	53	20	19
P-1	4	3	0	2	0	0	0	0
Total	520	228	578	293	683	327	556	305
Grand total	748		871		1 010		861	
Female %	30.5		33.6		32.4		35.4	

Source: Reports of the Secretary-General on the composition of the Secretariat: A/10184, A/35/528, A/40/652, A/48/559 and A/49/527.

a/ It should be noted that posts with special language requirements are from levels P-1 to P-5 inclusive.

C. Women in the General Service and related categories

13. The majority of women working in the United Nations system are in the General Service and related categories. In fact, there are more than four times as many women in the General Service than in the Professional category. Promotion to the G-7 level is understandably limited by the pyramidal structure of grading, and a recent study undertaken by the Focal Point for Women on stagnation of staff at levels G-5/G-6 and G-7 indicates that only some 6 per cent of the total General Service staff population will reach the G-7 level to perform para-professional functions during an average career span of 25 years.

14. The G to P Competitive Examination has come to be regarded as the most objective avenue for promotion from the General Service to the Professional category. It is moreover significant that, as in the case of competitive examinations to fill posts with special language requirements, the removal of extraneous factors leads to a more gender-balanced representation.

15. Recent in-house studies have revealed issues of concern to women in the General Service and related categories which merit greater attention. These include such areas as training opportunities and career development. These concerns will receive particular attention in the context of the overall human resources management strategies proposed by the Office of Human Resources Management as well as in the strategic plan of action proposed in this report.

III. CONSTRAINTS AND SOME IMPROVEMENTS

A. Women in the Professional category: the glass ceiling

16. Constraints to the advancement of women are many, varied and well entrenched. Often subtle and difficult to pinpoint because they relate to the "social" environment, they create invisible walls that hamper the efforts to introduce change and make progress slow and difficult.

17. It is gratifying to note that such strategic measures as the issuance of the landmark administrative instruction ST/AI/382 in March 1993, on special measures to improve the status of women in the Secretariat, and concerted efforts to increase the pool of qualified women candidates at the middle levels have contributed to the sizeable gains in the P-4 and P-5 levels during 1992-1994. The impact of a growing pool of P-5 women staff members qualified to assume higher level duties has not yet translated into promotions of women to the D-1 level and above, in part because these women have not accumulated the required seniority. Such mechanisms as cumulative seniority and judicious use of accelerated promotions in particularly deserving cases as appropriate will be applied, to increase the representation of women at the senior and policy-making levels. OHRM will devote careful attention to maintaining the pool of P-5 women candidates and to providing training as needed for their further career development. The strategic plan of action presented in this report includes strategies to facilitate the promotion of women to levels D-1 and above. These have been formulated bearing in mind the constraints listed below, which have been identified within the Secretariat.

1. Years in grade

18. A study of women in a single grade for 10 years or longer carried out by the Focal Point for Women indicates that many well-qualified women staff members remain in one grade for 10 years or longer. Enhanced planning capacity and career development will serve the interests of both the Organization and staff - men and women - in clarifying where and when opportunities for mobility and career advancement will arise. A management culture and management tools are being developed to recognize staff contributions to the Organization's work programmes as well as staff mobility and flexibility in adapting to a wider range of functions. Measures will be implemented to facilitate the advancement of this pool of qualified, senior women staff members, including to the extent possible considering their candidatures before looking externally for other women candidates.

2. Placement and promotion system

19. It is too early to assess the impact of the introduction of a new placement and promotion system in November 1993. The new system replaced the grade-by-grade annual promotion review with a system for announcing vacancies to which all interested persons could apply. While a comparative analysis of both systems would not be appropriate because of the different nature and cycles of the systems, a detailed analysis of the number of men and women recruited or promoted during the full year 1994 would indicate whether the new system offers greater opportunities to improve the status of women in the Secretariat.

20. As shown in table 3, preliminary figures indicate that more women than men have been promoted at levels P-2 through P-4, while more men than women have been promoted at the P-5 and D-1 levels. A total of 76 staff members, 54 per cent of whom are women, were promoted during the same period. As foreseen in the Secretary-General's bulletin ST/SGB/267, entitled "Placement and promotion", of 15 November 1993, the new system will be reviewed, updated and refined by 1995 in the light of experience and the long-term needs of the Organization. Special attention will be given in the context of this review to determining how the system could better facilitate the promotion and recruitment of women.

Table 3. Percentage of women promoted through the appointment and promotion bodies (from January to June 1994)

Levels	Men	Women	Total	Percentage of women
D-1	5	2	7	28
P-5	9	5	14	36
P-4	10	12	22	54
P-3	11	16	27	59
P-2/P-1	0	6	6	100
Total	35	41	76	54

Source: Data provided by the secretariat of the appointment and promotion bodies.

3. Recruitment

21. Table 4 indicates the percentage of women recruited through the appointment and promotion bodies during the first half of 1994. The data reveal that a much higher percentage of women than men was recruited at levels P-1/P-2 and P-3, 67 and 71 per cent, with a significant drop to 12 and 20 per cent for women at the P-4 and P-5 levels, respectively. Recruitment at the D-1 level was equally divided between men and women candidates. Thus, while some gains have been achieved, efforts must be made to accelerate the recruitment of women at middle and senior management levels and to ensure the steady and deliberate application of recruitment policies geared towards achieving the representation targets set by the General Assembly. The multiple roles played by women and their varied experiences, including volunteer work, should be given greater weight in evaluating candidatures and the contributions they can make to the work of the Organization, particularly those women rejoining the work force.

Table 4. Percentage of women recruited through the appointment and promotion bodies (from January to June 1994)

Levels	Men	Women	Total	Percentage of women
D-1	1	1	2	50
P-5	4	1	5	20
P-4	15	2	17	12
P-3	6	15	21	71
P-2/P-1	1	2	3	67
Total	27	21	48	44

Source: Data provided by the secretariat of the appointment and promotion bodies.

4. Career progression

22. In line with the spirit of the overall strategy for the management of the Organization's human resources set out in document A/C.5/49/5, and the strategic plan of action for women, career development plans and career development will play a prominent role in facilitating the advancement of women in the Secretariat.

5. Access to qualified/experienced women

23. Women comprise on average a lower percentage of the applicants for senior management vacancies. The paucity of women applicants, combined with the relatively small pool of women in service, contributes greatly to frustrating the effort to increase the representation of women. The response of women candidates to vacancies in certain fields traditionally viewed as male-dominated and technical - such as engineering - yields an even lower percentage of applicants or none at all. It is a generally recognized fact that women qualified in diverse technical fields can be identified in the newly independent States and countries in transition, as well as in Asian, African and Latin American developing countries. Efforts are under way to reach them.

24. External and internal competitive examinations have opened an avenue to recruit and promote women. External examinations, in particular, yielded a significant increase in the number of women recruits from 31 per cent in 1985 to 51 per cent in 1992. From 1985 through 1993, in nine rounds of the internal G to P Competitive Examinations, 63 per cent of the 177 staff promoted were women. The expansion and publicity of these examinations, especially in unrepresented or underrepresented Member States in the case of external examinations, are

considered useful devices in targeting recruitment and promotion mechanisms to balance geographical and gender distribution. Accordingly, the Examinations and Tests Section of OHRM is publicizing the national competitive examinations through the mass media and encourages all qualified women to apply.

6. Mobility

25. The Secretary-General considers that greater mobility will not only better serve the Organization but will serve the interests of individual staff in terms of their careers, experience and job satisfaction. However, it should be borne in mind that mobility can be a double-edged sword for dual-career families and single-parent families, where primary care is generally entrusted to women. OHRM will revisit such issues as strengthening systems to facilitate spousal employment and flexible working hours.

B. Women in the General Service and related categories: the glass ceiling

26. It should be recalled that, while there is a general acceptance among women in the General Service and related categories that the G to P Competitive Examination is a means of advancement to the Professional category, the number of available posts is considerably smaller than the number of General Service staff seeking access to Professional status. The small number of posts at the entry level has served to frustrate those, including women, in the General Service category who cannot be placed because of a shortage of posts. The allocation of posts for internal examinations is 30 per cent; consideration is being given to the possibility of proposing an increase to 40 per cent.

27. The Focal Point for Women intends to conduct further research into the avenues which can be pursued to identify means of enhancing the job satisfaction of senior General Service staff. Consideration must be given to identifying other avenues in addition to the competitive examination process for qualified women at the G-6 and G-7 levels to obtain job satisfaction and recognition of their contributions to the Organization.

C. Sexual harassment

28. It is considered that the issuance on 29 October 1992 of two administrative instructions, ST/AI/379 entitled "Procedures for dealing with sexual harassment" and ST/IC/1992/67 entitled "Guidelines for promoting equal treatment of men and women in the Secretariat", has sensitized both men and women to such issues and may well have served as a deterrent to such behaviour. Efforts have to be made to dispel the perception that those reporting incidents of sexual harassment will be placed in a situation detrimental to their career development and relations within the work environment.

29. With this in mind, an integral aspect of training programmes for managers, staff going on mission assignment and others will be an emphasis on the equal treatment of men and women and on issues related to sexual harassment.

Moreover, the implementation of the system of accountability and responsibility and the new performance appraisal system should help to change the management culture of the Organization and render it more responsive also in this particular area.

IV. STRATEGIC PLAN OF ACTION FOR THE IMPROVEMENT OF THE STATUS OF WOMEN IN THE SECRETARIAT (1995-2000)

A. Introduction

30. Reflective of the Secretary-General's commitment to the improvement of the status of women in the Secretariat is his intention to issue strict instructions to all departments, offices and organs of the Secretariat to adhere to the "succession plan for women", being devised as the centre-piece of the strategic plan of action for the improvement of the status of women in the Secretariat. The plan would give the Secretariat, for the first time, a planning capability and management tools to ensure that the 35 per cent overall target will be achieved by 1995, and the 25 per cent at levels D-1 and above as soon as possible and not later than June 1997.

31. The strategic plan of action, 1995-2000 (hereinafter called "the plan") is based on the Action Programme for the Improvement of the Status of Women in the Secretariat (1991-1995) but updates it to reflect the human resources management strategies and policies proposed by the Secretary-General in documents A/49/527 and A/C.5/49/5. Taking into account the mandates and requests of the General Assembly, the plan will set viable objectives and goals attainable within the current and anticipated capacity of the Organization. The Secretary-General will ensure the implementation of the plan through the issuance of clear and specific instructions as to the authority and responsibility of all managers to implement it, and the criteria by which performance will be appraised.

B. Goals and objectives

32. The long-term goals of the plan are to create conditions of equality and opportunity for women to participate fully in the work of the Secretariat and to achieve complete parity by the year 2000.

33. The objectives of the plan are:

(a) To achieve the target of 35 per cent overall representation of women in posts subject to geographical distribution by 1995 through the identification and setting of appropriate rates of recruitment and promotion;

(b) To achieve the 25 per cent representation of women at the D-1 level and above as soon as possible and not later than June 1997 through setting appropriate rates of recruitment/promotion at these levels;

(c) To identify and adopt recruitment and promotion policies and procedures which support the Secretariat's efforts to reach the targets and objectives;

(d) To establish clear opportunities for career development and improved conditions of work for the female staff in posts with special language requirements and in the General Service and related categories;

(e) To formulate specific actions and identify viable means to facilitate the implementation of the plan.

34. A recent assessment undertaken by the Focal Point for Women in the Office of Human Resources Management shows that the target of 35 per cent overall will be achieved if the "succession plan for women" that is being drawn up for the strategic plan is strictly followed. The 25 per cent target at levels D-1 and above is expected to be achieved around 1997, if the rates of recruitment and promotion proposed by the succession plan are implemented at these levels.

35. The assessment was based on the rate of attrition and replacement of vacancies in the Secretariat in the past five years and projected the number of men and women on available geographical posts from 1995 to the year 2000. The assumption was that the trends in recruitment and attrition from the past five years will continue during the next five years and that no significant changes would take place in the number of posts subject to geographical distribution.

36. The results also indicated that the Secretariat must accelerate promotion and recruitment of women gradually to a rate of at least 50 per cent to achieve better gender balance by the year 2000. Accordingly, the plan incorporates the results of this study into a model which would be used to test a few scenarios for reaching gender balance and set new annual targets and succession planning.

37. The succession plan for women will develop recruitment and promotion models and attempt to predict their impact, over a five-year period, on the grading structure and gender balance of the Secretariat.

38. These models will:

(a) Estimate available vacancies by grade for levels P-1/P-2 to Under-Secretary-General for the years 1995-2000;

(b) Estimate the targeted number of recruitments and/or promotions of women to be attained in each grade for each of the years in the period 1995-2000, if the overall target is set at 50/50 per cent representation by the year 2000;

(c) Test the likely impact of several "what if" scenarios in the combination of promotion/recruitment actions balanced against anticipated attrition rates at each grade level and over the years of the plan;

(d) Select the scenario which will balance the aspirations of women on board with the role of recruitment in closing the wide gaps in the representation levels of men and women at the higher levels (D-1 and above). The selected scenario will be built on principles that foster equality in conditions of work and job opportunities, offer training opportunities and encourage mobility of staff so as to maintain a steady influx of junior Professional women at the P-1 to P-3 levels, build the pool of women in middle

grades at P-4 and P-5 levels, and close the gender gap at the senior, policy-making D-1 and D-2 levels;

(e) Synchronize vacancies with the requirements of departmental staffing needs;

(f) Tie the success of the plan to the initiatives and monitoring role of OHRM and the accountability of the departments.

C. Implementation

39. To effect change, planning and targeting must be coupled with commitment and strategic action in such areas as planning and information/database development, recruitment, placement and promotion monitoring, appraisal and follow-up. The endorsement of this approach by the General Assembly is essential to achieving success. The strategic actions to be undertaken are as follows:

(a) Planning and information/database development

Planning and the development of timely and accurate information and database resources are essential to establish a human resources management planning and career management capacity. The strategic plan of action for women could provide a model for a human resources plan for the Secretariat and will be integrated into the planning capability of OHRM when this is established.

(b) Networking with other databases on women

Every opportunity will be taken to network with regional and international databases, including those of the regional commissions, universities, research institutions, professional women's associations and Governments. Special attention will be devoted to rosters available in developing countries and regions.

(c) Upgrading the internal roster of women

OHRM will continue upgrading its roster capability, cross-referencing to reflect the diverse experiences of staff members and facilitate the identification of candidates eligible for placement in posts in various occupational groups.

(d) Broad advertising and communication

OHRM will endeavour to advertise widely in professional journals as well as newspapers and direct mailings tailored to the requirements of the post being advertised and/or to the targeted countries which are unrepresented or underrepresented by women and/or in terms of geographical distribution.

(e) Recruitment missions

To increase the Organization's access to qualified women, particularly in unrepresented or underrepresented countries, the work programme of the Focal Point for Women and the Recruitment and Placement Division will include strategically targeted recruitment missions. During 1994 and 1995, recruitment missions will be scheduled to coincide with regional preparatory meetings for the Fourth World Conference on Women, deemed to represent an ideal opportunity to widen the net for recruiting qualified women from all regions.

(f) Management culture

It is essential to develop a management culture which is supportive in both word and deed of measures to achieve equality between men and women in the workplace, empowering both and giving both the scope to contribute to the work of the Organization to their maximum potential. Such a culture will require the active concern and involvement of managers at all levels in the optimum development and management of their human resources capacity.

(g) Mobility

Greater inter-agency cooperation will be sought in facilitating spouse employment and efforts will also be undertaken to encourage Governments to permit spouse employment in their respective duty stations.

(h) In-service training

Field mission assignments serve as excellent opportunities for women to expand their fields of expertise and gain valuable experience and skills, often offering the possibility to serve at a higher level. Similar opportunities between offices away from Headquarters and Headquarters would serve experience-building. A planned rotation system would also ensure that a return to the respective duty station would avoid the creation of job insecurity or placement difficulties.

(i) Career development

Women especially need to be encouraged to look after and actively engage their supervisors in their career development. Managers need to be encouraged to demonstrate flexibility and interest in facilitating such efforts.

(j) Training

OHRM is preparing training packages designed to foster the desired changes in management culture, enhance awareness and ability to deal with gender discrimination and sexual harassment issues, and provide skills training. More women at the P-5 and D-1 levels will be included in management training programmes to encourage their participation in the change in management culture, by promoting better understanding among both women and

men of different leadership styles, exploring better means of working together, and creating a more responsive working environment for all.

(k) General Service and related categories

Within the context of the local recruitment of staff and through their assignment to peace-keeping, peacemaking and other field operations, mobility should continue to be afforded also to staff in the General Service and related categories. These assignments should be effected through a roster capability. Such measures would give all qualified and deserving staff the opportunity to gain experience, knowledge and expertise and, as shown in previous field missions, often offer the opportunity to perform functions at a higher level.

A roster capability with senior G-6 and G-7 women could also be established in certain fields, such as Personnel Management, Personnel Administration, Recruitment, Finance and Administration to allow for quick replacement of Professional staff going away on mission. This would permit on-the-job training at a higher level for those staff selected.

D. Monitoring, appraisal and follow-up

40. Monitoring, appraisal and follow-up are essential components of the plan and will be continuous. Monitoring will measure day-to-day activities against the short-term goals as well as such general and long-term objectives of the plan as the numerical targets and timetables, set under the succession plan for achieving equitable gender balance in posts subject to geographical distribution. Compliance with criteria established for the development of the management system will be monitored.

41. The various components of the plan will be developed as pilot projects fully compatible and integrated with such Secretariat-wide systems as the Integrated Management Information System, the accountability and responsibility system and the performance appraisal system. Progress will be evaluated against the stated objectives and goals and will be reported to the General Assembly on a regular basis. Revisions and follow-up action will be undertaken on the basis of experience gained and further guidance offered by the General Assembly.

42. The assignment of responsibilities and roles within the Secretariat to specific, identifiable organizational units and officials and the establishment of the performance appraisal system, which will also evaluate performance in this regard, are viewed as important means of strengthening the spirit of commitment to implementing the plan. Authority commensurate with the responsibility delegated will empower officials to take the actions required in achieving stated goals. Clear policies and the communication of these as well as decisions to all staff will enhance transparency in human resources management.

E. Focal Point for Women in the Secretariat

43. The Focal Point for Women will continue to work closely with the divisions of OHRM and advise the Assistant Secretary-General for Human Resources Management on ways of improving the placement, promotion and recruitment processes as well as strategies to improve the environment and working conditions of women.

44. The activities of the Focal Point for Women are currently financed from extrabudgetary resources. While specific proposals to fund these activities with regular budget resources will be included in the proposed programme budget for the biennium 1996-1997, the uncertainty as to the availability of future extrabudgetary funding casts a doubt as to the immediate future of the unit. As an interim solution, Member States are encouraged to provide voluntary contributions to strengthen the capacity of the Focal Point to carry out the strategic plan.

F. Member States

45. The Secretary-General will continue to urge Member States to include women among those lists of nationals proposed for vacancies and to assist in contacting and encouraging qualified women to apply for positions with the United Nations and to publicize vacancies. Material support is also being invited in the form of the non-reimbursable secondment or financing of experts to assist the Office of Human Resources Management, in particular the Focal Point for Women, in the conduct of goal-specific studies or activities.

46. The commitment and active support of Member States is also critical. The Secretary-General will continue to identify and draw to the attention of Member States the ways in which they can play a decisive role in achieving the goals and objectives set for the improvement of the status of women in the Secretariat.

V. CONCLUSION

47. As preparations progress for the Organization's fiftieth anniversary and the Fourth World Conference on Women in 1995, it is appropriate to recall that the Charter of the United Nations sets the foundation of the commitment to create conditions of equality and opportunity for women and men of the highest calibre. General Assembly resolutions 48/106 and 48/108 refer to the shared responsibility of the Member States and the Secretary-General in this regard, identifying the diverse and complementary roles of each. These as well as previous relevant resolutions entrust the Secretary-General with fulfilling specific mandates and achieving specific goals in improving the status of women in the Secretariat, in particular at decision-making levels. Guided by the resolutions, the Secretary-General has taken action to fulfil these mandated responsibilities to the extent possible. It is increasingly clear, however, that the full involvement of Member States as active partners is required, if the objectives and goals set by the General Assembly are to be met. Thus, the

strategic plan of action for the improvement of the status of women in the Secretariat outlined in the present report envisages courses of action to be pursued by the Secretary-General as well as ways in which Member States can actively support the Secretary-General in his efforts.

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General Assembly

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ADVANCEMENT OF WOMEN

HUMAN RESOURCES MANAGEMENT: OTHER HUMAN RESOURCES QUESTIONS

Improvement of the status of women in the Secretariat

Report of the Secretary-General

Corrigendum

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Paragraph 9 should read

9. One device that could play a role in increasing the percentage of women at decision-making levels is the Senior Review Group, established by the Secretary-General in late 1993 for the filling of posts at the Director (D-2) level. The Senior Review Group can certainly play an important role in bringing more women into decision-making levels by systematically reviewing all eligible internal candidates, as well as ensuring that all existing special measures to promote women have been applied in the consideration of internal and external women candidates.

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